

A consultation on changes to the law relating to the employment of children and young persons at a track with a betting premises licence IA No: DCMS045w Lead department or agency: Department for Culture, Media and Sport Other departments or agencies: N/A	Impact Assessment (IA)					
	Date: 18/11/2011					
	Stage: Consultation					
	Source of intervention: Domestic					
	Type of measure: Other					
Contact for enquiries: Simon Richardson Tel: 020 7211 6420 Simon.Richardson@culture.gsi.gov.uk						

Summary: Intervention and Options **RPC: GREEN**

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year	In scope of One-In, Measure qualifies as One-Out?
£0.8m	£5.0m	-£0.6m	Yes Out

What is the problem under consideration? Why is government intervention necessary?
 Section 55 of the 2005 Gambling Act makes it an offence for a person under the age of 18 years to be employed, in any capacity, at a track which holds a betting premises licence at a time when betting is being offered (effectively, throughout the period when horse races, football matches, etc. are taking place). A young person also commits an offence if they accept employment on a track in these circumstances.

Under previous legislation (Betting, Gaming and Lotteries Act 1963) under 18s were permitted to be employed in non-gambling roles and the Government's policy intention had been to maintain the position under the 1963 Act. This restriction was therefore unintentional. It unnecessarily distorts the labour market, creating inefficiency in the allocation of resources. It imposes costs on businesses and holds back Under 18 employment in the labour market.

What are the policy objectives and the intended effects?
 To amend section 55 of the 2005 Act to create an exemption for tracks to allow them to employ Under 18s in non-gambling roles when betting is taking place, improving the functioning of the relevant labour markets.

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

- 1) Do nothing.
- 2) Using powers in section 55(3) of the 2005 Act to distinguish the gambling and non-gambling parts of a track for the purpose of section 55(2)(a).
- 3) **Preferred Option.** Introduce proposals to amend the Gambling Act by means of a Legislative Reform Order (LRO).

The 'Doing nothing' option continues to restrict Under 18s from employment and is rejected because it does not meet the policy objective. Option 2 is rejected because the powers in section 55(3) are not wide enough to be used to meet the policy objective. Option 3 is therefore preferred as the sole identifiable means of meeting the policy objective.

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
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 Kenyon 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 2010	PV Base Year 2011	Time Period 10 Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.13	High: 2.66	Best Estimate: 0.77

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.00		0.50	4.29
High	0.00		3.52	30.27
Best Estimate	0.00		1.49	12.84

Description and scale of key monetised costs by 'main affected groups'
 It is estimated that the proposal would potentially affect approximately 120-150 tracks that currently hold or would consider obtaining a 'track premises licence'. These venues would be able to employ Under 18s at a lower National Minimum Wage rate than that which applies to Over 18s. The main cost of this policy is therefore income lost by Over 18s that are displaced from their jobs by the cheaper Under 18s. The effective reduction in the price of labour is also likely to stimulate increased employment levels. There will be a cost to business from employing these additional workers.

Other key non-monetised costs by 'main affected groups'
 Exchequer impacts from decreased total wage earnings. Impacts on the wider labour market outside of trackside employment are not taken into account.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.00		0.51	4.42
High	0.00	0	3.83	32.93
Best Estimate	0.00		1.58	13.61

Description and scale of key monetised benefits by 'main affected groups'
 There will be employment income benefits for Under 18s that displace Over 18s from jobs at tracks, and from new job opportunities that are created for Under 18s as businesses respond to the lower cost of labour determined by a lower National Minimum Wage. Businesses will benefit from a net wage cost saving equal to the difference between Over 18s and Under 18s employment costs. Businesses will also expect to earn increased revenues from additional employment that has been created.

Other key non-monetised benefits by 'main affected groups'
 Exchequer impacts from increased profitability of businesses are not quantified. Impacts on the wider labour market outside of trackside employment are not taken into account.

Key assumptions/sensitivities/risks Discount rate (%) 3.50%

Estimates of the level of employment are based on national averages for Under 18s employment rates (Labour Force Survey) and working hours (Annual Survey of Hours and Earnings) applied to estimates of employment in spectator sports (Sport Satellite Account) used as a proxy for trackside businesses, in combination with an elasticity of demand for teenage labour (academic study). The effect on employment is combined with differences in the National Minimum Wage for different age groups to produce a monetised estimate of the impact.

Top-down analysis of this sort requires a number of assumptions to be made. Uncertainties in assumptions have been tested with sensitivity analysis, as reflected in the "low" and "high" estimates presented above.

The methodology for monetising costs and benefits is described fully in the Evidence Base.

The proposal does not pose a risk to the licensing objectives of the Gambling Act 2005. It is considered that employment trackside in non-gambling related roles does not risk undesirable exposure of children to gambling.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.07	Benefits: 0.65	Net: -0.58	Yes	Out

Evidence Base (for summary sheets)

Background

The Betting Gaming and Lotteries Act 1963

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

The Gambling Act 2005

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

Premises Licence

6. Licensing provisions under the 1963 Act have been replaced with a single betting premises licence under the 2005 Act. It is now a requirement for an operator to obtain a betting premises licence to provide facilities for betting. Premises which offer betting facilities are mainly betting shops and tracks (such as a horse-race course). However, there is no legal distinction between a premises licence which is issued to a betting shop and a premises licence which is issued to a track. For the purposes of the Act they are both betting premises licences.
7. Premises licences are issued by a local authority in the area a premises is situated and authorise provision of facilities for betting whether making or accepting bets, acting as a betting intermediary or providing other facilities for making or accepting bets (a "betting premises licence").
8. A "track" is defined in the 2005 Act as "a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place". So, for example, this would include a football ground, cricket ground and any other sporting venue. If any betting facilities are provided during the sporting event then, with a couple of exceptions, a betting premises licence is required to authorise the betting facilities. In this consultation such licences are referred to as "track premises licences" although this is not a term that is used in the Act. It is the track premises licences which the proposals in this consultation will affect.

Protection of Children and Young Persons

9. Part 4 of the 2005 Act contains a number of provisions relating to the protection of children and young persons. In particular, restrictions are imposed on ways in which children and young persons can be employed on premises where gambling facilities are being provided, even if they are not

engaged to perform any gambling activities themselves. The purpose of these restrictions is to ensure that children and young persons are not afforded undesirable exposure to gambling.

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

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

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

(ii) Employment in casinos etc (section 55)

12. A person commits an offence if he employs a child or young person to perform any function on premises in respect of which (a) a casino premises licence, (b) a betting premises licence, or (c) an adult gaming centre premises licence, has effect. A young person also commits an offence if he is employed in this capacity. However, the offences do not apply if employment is at a time when gambling is not taking place.
13. A person who employs a child or young person under the age of 18 years in contravention of these prohibitions shall be guilty of an offence and be liable on summary conviction to (a) imprisonment for a term not exceeding 51 weeks (in Scotland the term shall be no longer than 6 months) (b) a fine not exceeding level 5 on the standard scale (currently £5,000), or (c) both. The young person shall also be guilty of an offence if he is employed in contravention of these prohibitions and shall be liable for a fine not exceeding level 3 (currently £1,000) on the standard scale.
14. The effect of these offences is that a child or young person cannot be employed in any capacity at a track which holds a betting premises licence, whilst betting is being conducted in accordance with that licence.

The problem under consideration

15. As demonstrated above, it was the Government's intention under the 2005 Act to restrict the ways in which children and young persons could be employed to work on premises where facilities for gambling were being provided, even where they were not engaged to perform any gambling activities themselves. This was to ensure that children and young persons were not afforded undesirable exposure to gambling. However, it was recognised that different gambling environments provided different levels of exposure and it was accepted that young persons could, in particular circumstances, be employed in premises which offered gambling facilities, provided that they were not involved in providing the facilities for gambling.
16. In a policy document presented to Parliament in November 2003 by the Secretary of State for DCMS, named "Draft Gambling Bill – The Policy", the Government stated:

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

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

to serve refreshments. On any premises, no person under the age of 18 is to have any access to gaming machines in any category above category D.”

17. Under section 53 of the 2005 Act, a person commits an offence if he employs a child to perform any function on premises where, and at a time when (a) facilities are being provided for the playing of bingo, or (b) facilities for gambling are provided in accordance with a club gaming permit or a club machine permit. However, this does not apply to the employment of young persons, and therefore a young person can be employed in such an environment. The law in respect of bingo premises thus accords with the policy statement above. This provision is still subject to the offence in section 51 of the 2005 Act and therefore such employment must not involve providing facilities for gambling.
18. The 2005 Act also allows a young person to be employed to work in a licensed family entertainment centre (such as a seaside amusement arcade) provided that (i) they have no access to areas where category C machines are available for use and (ii) a Category C gaming machine is not being used or is available for use at the time when they are on the premises.
19. In response to the publication of the draft gambling bill, the House of Lords and House of Commons Joint Committee published a report “Draft Gambling Bill” setting out their comments on the draft bill. With regard to the issue of young persons being employed in gambling premises they commented:

“266 We welcome the Government’s clarification that young persons will be able to be employed in areas of casino complexes in which gaming does not take place. We consider that Clauses 41 to 45 of the draft Bill should not prevent young persons being employed in gambling premises, provided that the employment does not relate to the gambling provided in those premises.”
20. The policy to allow persons under the age of 18 to carry out non-gambling functions was also reflected in the Explanatory Notes to the Act, which stated *“There is also an effective prohibition on children and young persons being employed in the betting areas of certain tracks and the adult-only areas of family entertainment centres.”* (paragraph 189). This infers that it was the intended policy to allow children and young persons to be employed in the non-betting areas of a track.
21. It was also the intention of the 2005 Act for children and young persons to have restricted access to premises which held particular gambling licences. Section 47 of the Act prohibits children and young persons from entering a casino, a betting shop or an adult gaming centre at any time when facilities for gambling are being provided in reliance on the premises licence. However, an exception is made regarding the access to tracks with a betting premises licence. The Act does not prohibit children and young persons from entering a track while betting is being carried on in reliance of the licence. Furthermore, the restriction on children and young persons entering the betting areas of tracks, does not apply in respect of dog tracks and horse-race courses on race days. These exemptions were made for tracks in line with the Government’s view that racecourses and other sporting venues represent a low risk gambling environment for children and young people.
22. However, as explained above, the present application of section 55 of the 2005 Act to track premises licences is inconsistent with the Government’s policy regarding the presence of children and young persons on tracks. The effect of the Act is therefore at variance with the Government’s policy intention to maintain the position under the 1963 Act, with a distinction being drawn between gambling and non-gambling work carried out on at a track, and the latter being allowed.
23. The effect of the 2005 Act is that children and young persons are permitted to be present on tracks while betting is being conducted; and are able to enter the betting areas of horse race courses and dog tracks on race days; but cannot be employed to work on those tracks in a non-gambling capacity while betting is taking place. This was not the policy intention. The issue appears not to have been identified during the drafting and passage of the Gambling Bill. In practical terms, this is of concern to track owners and operators, as well as the businesses that operate on tracks, who employ under-18s in various roles to successfully carry on their business.

Rationale for intervention

24. Following representations from three of the industries affected by the restriction, it has been argued persuasively that under-18s are a valuable resource as employees of the track or of third party businesses on the track. Representations have made clear that prior to the 2005 Act coming into force, under-18s were employed on tracks in substantial numbers and were a key part of the tracks sector in terms of filling roles and the day-to-day operations of the tracks. A young person might be employed in an apprentice role, as a holiday job, or as a starting job for a career in these industries.

25. Particular roles for children and young people might include stable staff, apprentice jockeys, dog handlers, match day stewards, junior professional footballers, ball boys and girls at tennis tournaments, as well as staff in associated fields such as catering, hospitality, litter collection, car park assistants, ground staff or office staff.
26. The Racecourse Association has estimated that the number of staff under 18 employed on the 60 horse racecourses in Great Britain is in the region of 1025, with a seasonal variation of up to 100% when there are school holidays or key fixtures. The Greyhound Racecourse Promoters Association has estimated that around 9% of the workforce on the 26 licensed greyhound tracks are under 18.
27. The representations from the three industries have questioned what evidence existed that there was a harm that needed addressing through the relevant provisions in the Act. They also argued that their respective industries seek to encourage participation from a young age in order to encourage people to join the industry which will help to sustain it. However, all representations have accepted that the law should remain as it is with regard to under-18s being prevented from providing facilities for gambling, and it is not intended that this be changed.
28. Whilst there is no evidence that licensing authorities have so far sought to enforce the provision prohibiting the employment of under-18s on licensed tracks a number have previously sought guidance and DCMS believes that it is consistent with the principles of good government to rectify the anomaly which has been highlighted.
29. The burden we have identified meets several of the definitions set out in Section 1 subsection 3 of the Legislative and Regulatory Reform Act 2006. It is:
 - an 'obstacle to efficiency, productivity or profitability' (subsection 3c) – since it is not currently lawful to employ under-18s in various non-gambling roles on tracks and for young people to seek employment on tracks. Removing this obstacle would help allow tracks and businesses that operate on tracks to successfully carry on their business.
 - a 'sanction, criminal or otherwise, which affects the carrying on of any lawful activity' (subsection 3d). Although there is no evidence that licensing authorities have so far sought to enforce this provision, it is an offence for tracks to employ under-18s in such a way which, on conviction, would result in imprisonment for a period not exceeding 51 weeks (no more than 6 months in Scotland) and/or a fine not exceeding £5000. There is also a financial penalty for the young person employed.

Policy objective

30. Taking account of the considerations above, including the need to prevent damage to the industries affected, the policy intention is to rectify this anomaly by amending section 55 of the Act to provide tracks with an exemption allowing the employment of persons under the age of 18 in non-gambling roles at tracks when betting is taking place. However, we will retain the necessary protection in section 51 of the 2005 Act, which imposes a criminal offence for any person under 18 to be employed in the provision of gambling facilities.

Description of options under consideration

31. The Government has considered four options in respect of this issue:

- 1) Do nothing.
- 2) Using powers in section 55(3) of the 2005 Act to distinguish the gambling and non-gambling parts of a track for the purpose of section 55(2)(a).
- 3) Introduce proposals to amend the Gambling Act by means of a Legislative Reform Order (LRO).

Option 1: Do Nothing

32. This option would involve a continuation of the unintended provision in the Gambling Act 2005. While the Government is not aware of any licensing authority taking enforcement action in respect of anyone under the age of 18 having been employed on a track, the restriction and the threat of criminal sanctions would remain, despite such employment being legal previously, and the policy objective would not be met.

33. It was never the Government's policy to prevent such employment, and does not appear to have been Parliament's intention, particularly as it was previously lawful. The ongoing potential for the imposition of criminal sanctions on those operating at tracks is a burden that is out of step with the policy intention behind the Gambling Act.
34. If applying the strict letter of the law, licensing authorities would have to prosecute any business allowing employment of under 18s on a track. Given the background to this situation and the absence of any evidence of problems relating to such employment previously, any active enforcement by licensing authorities would therefore appear disproportionate and unnecessary.

Option 2: Using powers in section 55(3) of the 2005 Act to distinguish the gambling and non-gambling parts of a track for the purpose of section 55(2)(a).

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

Option 3: Introduce proposals to amend section 55 of the Gambling Act by means of a Legislative Reform Order (LRO)

36. This option would 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, 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.
37. We propose to amend section 55 of the 2005 Act, creating an exemption for tracks to allow them to employ under-18s in non-gambling roles when betting is taking place. We intend to insert a new paragraph 2(c) to section 55 of the 2005 Act. Section 55(2) prescribes the circumstances in which the offence in section 55(1) will not apply. We believe that the proposal to amend is suitable for an LRO under section 1 of the LRRRA.
38. The provision in section 51 of the 2005 Act, which imposes a criminal offence for any person under 18 to be employed in the provision of gambling facilities, would remain in place. The proposals would not, for instance, make it legal for racecourse bookmakers to employ persons under the age of 18 years to work in betting functions as assistants on their pitches.
39. The Government is satisfied that the policy objective cannot be satisfactorily achieved through non-legislative means. The current legal position regarding employment of under-18s on tracks does not leave any scope for an alternative interpretation. The prohibition on employing a person under the age of 18 years on a track with a betting premises licence is contained in the primary legislation and therefore we consider that an amendment to the Act is necessary to achieve the policy.
40. 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.

Cost/Benefit Analysis

Introduction

41. 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.
42. In England, Wales and Scotland, it is estimated, following discussions with the Racecourse Association (horse racing), the Racecourse Promoters Association (greyhound racing) and the Gambling Commission, that around 120-150 sports venues are most likely to obtain or seek to obtain a ‘track premises licence’ and therefore be affected by this proposal:
 - 60 horse racecourses
 - 26 licensed greyhound tracks
 - 30-40 football stadiums (including the national stadiums in England, Wales and Scotland)
 - 10-30 other sports venues (including, potentially, those for tennis, cricket, rugby union and rugby league)
43. Also affected are the businesses that operate on those tracks, including for example catering contractors, as well as individuals prevented from legal employment on tracks, including students looking for holiday work, or apprentices wishing to train in a particular occupation. A wide range of occupations are affected including catering and office staff, stable hands, jockeys, dog handlers, ball boys and girls at professional tennis tournaments, and potentially professional sport players including junior professional footballers.

Proportionality

44. The evidence base developed in Impact Assessments should be proportional to the impact of the intervention being made. The proposed legislative amendment is intuitively a small intervention. The number of trackside venues affected is small, estimated to be between 120 and 150 venues. Moreover, the impact on stakeholders would seem to be small with a relatively small proportion of the labour force being made up from the affected age group and only small differences in the hourly wage rate. Moreover, given that the preferred option involves a legislative amendment to correct an oversight in the Gambling Act 2005 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 options have been identified and monetised where appropriate and possible.
45. Option 2 is not considered for appraisal. The policy discussion in paragraph 35 clearly indicates that this option is not viable in legal terms.

Baseline – Option 1: Do nothing

46. The do nothing option represents the possibility of continuing with current legislation. The only identifiable cost would be the small administrative burden associated with enforcing the law as it stands. This burden is likely to be very small because the appropriate enforcement machinery is already in place relating to gambling on tracks and would only have to be minimally extended to cover enforcement of this offence. This option would, however, continue to restrict the business opportunities of at trackside venues and there are thus potential benefits that they are unable to enjoy. This state of affairs forms the *status quo*, and the rest of the cost benefit section focuses on appraising the economic benefits and the economic costs of the preferred option against the assumed zero impact baseline of the do nothing option.

Preferred option appraised – Option 3: Legislative Reform Order (LRO)

47. This is the preferred option since it allows for the correction of legislation to mirror the government's original intention, and so reduces the current regulatory burden imposed on businesses by allowing the labour market to function more efficiently. It is crucially important to recognise that implementing the proposed legislative amendment does not oblige businesses to do anything – it merely gives them increased flexibility to use an extended labour market that includes Under 18s. They can choose not to use this source of labour, under which circumstances the preferred option simply collapses back into the baseline do nothing option, with no change in benefits or costs relative to the status quo. Economic theory would seem to suggest that businesses would take advantage of a larger labour market, however, and the following sections devote considerable attention to appraising the anticipated economic benefits and costs associated with implementing the preferred option. First, the economic impacts are set out in general terms, then the methodology for their quantification is examined, and finally the results of this monetisation are presented and discussed.

Identifying economic effects of the preferred option

48. The effect of the legislative amendment is to increase the flexibility of the labour market that trackside venues draw their staff from. Without the reform they are only able to employ those over the age of 18 (henceforth Over 18s); with the reform they are also able to employ those under the age of 18 (henceforth Under 18s).
49. The National Minimum Wage (NMW) guarantees a minimum hourly rate for employees. This minimum varies depending on the age of the employee. The rates at which the NMW is payable are set out in the table below.

Table 1: National Minimum Wage Rates by Age Group

<i>Age Group</i>	<i>National Minimum Wage (£ / hour)</i>
Over 21s	6.08
Between 18 and 21	4.98
Under 18s	3.68

50. The NMW for Under 18s is significantly lower than the NMW for Over 18s. Assuming that the labourers demanded for sports venues for trackside employment are relatively low skill, it is a reasonable to assume that labour is homogenous between age groups – in other words, that Under 18s are equally capable of doing many trackside jobs as Over 18s. This suggests that by allowing Under 18s to enter the trackside labour market, sports venues can substitute away from more expensive Over 18s labour to cheaper Under 18s labour, realising a cost saving in the process.
51. This means that while businesses and Under 18s will naturally gain from the reform, Over 18s labourers are likely to lose out. Assuming that there are a fixed number of jobs to be filled by labour of any age at trackside venues the gain to businesses and Under 18s will be directly offset by losses to Over 18s. Under this assumption the legislative reform is socially neutral in terms of net benefits, but it does prompt a redistribution of resources across stakeholders.
52. The legislative reform will, however, effectively reduce the price of labour for trackside venues. It is possible that a reduction in the price of labour will stimulate an increase in demand for trackside labour. This would suggest that there are not only a fixed number of jobs before and after the reform, but also some additional job creation as a result of the reform. The extent to which there is job creation will depend on the wage price elasticity of demand for labour; how responsive the demand for labour is to the change in the wage price of labour.
53. It is quite possible that the NMW is set below the equilibrium price in the labour market for trackside employment, or perhaps in certain sub-markets for particular types of more skilled labour. In this case the effect of the legislative reform is to increase the potential supply to the trackside labour market and therefore increase competition between potential employees on the supply side. This has the effect of driving down the average price of labour. Similarly to the mechanism described above, this will realise a benefit to businesses from lower labour costs and to those who benefit from additional job creation. But there will also be a counterparty of labourers who bear costs from either being displaced from work or having to take a lower wage rate.

54. The effects described in paragraphs 48-53 take into account only the economic effects of the legislative reform on the trackside labour market – known as the partial equilibrium. It is important, however, to also be mindful of any possible knock on effects of the legislative reform in the wider economy – known as the general equilibrium. It is possible that opening the labour market for trackside venues could have a detrimental effect on other businesses on the economy by effectively increasing the demand for Under 18s labour across the economy. This might induce an increase in the wage rate for other businesses in the economy.
55. Economic theory suggests that there will be winners and losers from this reform. Whilst this might be the case it is important to remember that this is a loosening of regulation to allow the labour market to operate more freely. In encouraging a free labour market this reform adheres to the basic principle of economics that unhindered operation of markets will, in the absence of market failures, lead to more allocative efficiency in production. Given that there is no identifiable market failure that suggests Under 18s should be prevented from working trackside – with there being little risk of inappropriate exposure to gambling – this reform stands on economically robust ground.

Quantifying economic effects of the preferred option

56. The first effect to isolate is the substitution effect where the preferred option allows trackside employers to replace more expensive (as defined by the NMW) Over 18s labour with less expensive (as defined by the NMW) Under 18s labour. The key to understanding this effect is to have an accurate estimate of the demand for Under 18s labour in an unrestricted market. The most obvious, not to mention complete, way to generate this information would be to compile a bottom up assessment at the individual business level. This is likely to be very resource intensive, however, and similarly credible results could be obtained from discussion with trade organisations such as the Racecourse Association. These discussions have not as yet yielded the information necessary to make quantitative estimates. The consultation document aims to encourage the transfer of this sort of information from business stakeholders to ensure the highest level of robustness in the evidence base should the preferred option be advanced to legislation after consultation.
57. In the absence of any bottom up data it is necessary to take a top down approach from existing national statistics to get a reasonable approximation of the impact of the preferred option. There are no statistics collected on the employment of Under 18s at trackside venues but there are two key pieces of information that can be combined to produce an estimate for this figure.
58. The Sport Satellite Account (SSA)¹ gives an estimate for employment in sports recreational services. Spectator sports are included as a sub category of sports recreational services. For the purposes of the analysis it is assumed that this spectator sports category corresponds with trackside venues. Unfortunately the SSA does not give an employment estimate for spectator sports; instead it is necessary to apportion this on the basis of consumer spending on spectator sports relative to total spending on sports recreational services. This gives a total employment level of approximately 30,000 persons in spectator sports. The SSA does not offer any guidance on what composition of this demand between Under 18s and Over 18s.
59. To estimate the extent of demand for Under 18s within the SSA derived estimate for employment in spectator sports it is possible to apply the average concentration of Under 18s in the total labour force as collected by the Labour Force Survey. Breaking down the statistics by age range shows that only approximately 1% of the total national labour force is comprised of Under 18s. The Labour Force Survey also shows that Under 18s tend to be involved in part time employment rather than full time employment, at an average rate of 82% and 18% respectively. Applying these national averages to the spectator sports employment estimate derived above generates an estimate of 64 full time and 300 part time Under 18 employees in spectator sports.
60. These employment demand estimates can be monetised by converting employment estimates into hours of employment and then applying the NMW rates described in Table 1. Conversion to hours of employment is relatively simple to calculate by applying a standard number of working hours to each employee dependent on part time or full time status. This is done by applying average working times for the Under 18s age group as defined by the Annual Survey of Hours and Earnings (ASHE) to the number of full time and part time employees identified in paragraph 59. This gives an estimate of the size of employment demand measured in hours.

¹ Sheffield Hallam University (2011), "2004-2006 Sport Satellite Account for the UK", DCMS Publication.

61. The value of this demand is then monetised for the Under 18s by applying their NMW rate. Finding an appropriate wage rate to monetise the impact on Over 18s is not so simple, since there are two NMW rates that apply for this group. This difficulty is dealt with by creating a composite Over 18s NMW by weighting the two rates by the proportion of these ages in the national labour force as measured by the Labour Force Survey. The cost reduction benefit that accrues to businesses is equal to the Over 18s cost less the Under 18s benefit. These monetised estimates are applied over a ten year appraisal period, discounted to present values at a rate of 3.5% per HMT Green Book guidance.
62. The dynamic effect on employment of the effective reduction in the price of labour could be measured by applying an estimate of the labour demand elasticity. Reviewing the literature, there is an unsurprising absence of empirical estimates of the labour demand for trackside employment. The most relevant paper available is Neumark and Wascher (1992)², which estimated among other things the wage elasticity of demand for teenage labour. Whilst this study is dated and relates to the American labour market, it serves as a reasonable guide for the sort of average elasticity that might be applicable to the effective wage price change brought about by the preferred option. The study finds that teenage labour tends to be inelastic, ranging between -0.1 and -0.3 with a best estimate of -0.2. These elasticities provide the basis for the estimation of the employment response to the effective price change. The impact on earnings, and therefore the business cost of additional employment, can be calculated through the application of the Under 18s NMW. Assuming that the wage rate is equal to the marginal revenue product of labour, the impact on business revenues can also be calculated, using the Under 18s NMW, as well as the Over 18s composite NMW and applying the rule of a half.
63. There is clearly a lot of uncertainty in the assumptions described above; this is to be expected when attempting to disaggregate top down data to much smaller market segmentations. This uncertainty is managed through the application of a sensitivity analysis; an attempt to understand whether the results of the analysis are robust to the assumptions that are being made. The results of the sensitivity analysis allow for “low” and “high” scenarios for economic impacts to be presented alongside the best, or central, estimate. The following area outlines the main areas of uncertainty and presents the sensitivity analysis that was performed on each assumption.

Table 2: List of key uncertainties in economic assumptions and sensitivity analysis applied

<i>Assumption and uncertainty</i>	<i>Sensitivity Applied</i>
Size of spectator sports employment as a sub-sector of sports recreation services employment is apportioned on the basis of consumer expenditure. It is possible that the average productivity of labour is higher or lower in spectator sports relative to sports recreation services as a whole. This creates uncertainty in the estimate of employment demand.	The size of total trackside employment is the first key assumption, but it is difficult to establish a reliable figure for the upper and lower bounds of this uncertainty. Therefore an arbitrary sensitivity of 20% each way has been applied to reflect the fact that it would be reasonable to believe that Under 18s may work longer or shorter hours in trackside venues than on average across the UK labour market.
The key uncertainty is in mapping the statistical category of spectator sports employment to the category of trackside venue employment as designated by the legislation. It is reasonable to assume that this uncertainty travels in only one direction, however. Spectator sports will encompass all trackside venues, but may well include some other sports venues that do not offer gambling facilities.	The whole of spectator sports employment is taken as the “high” estimate. To account for uncertainty, the “central” estimate is arbitrarily adjusted down from this point by 25%. The “low” estimate is then adjusted down by 50%. These are large sensitivities, because the assumption is important and there is no detailed understanding available of how the spectator sport and trackside venues categories map onto each other.
Average number of Under 18s in the UK labour market has been used as representative of the proportion of Under 18s that would be found in trackside employment. This is a clear source of	The proportion of Under 18s that would be employed in the trackside labour market is uncertain, but it is difficult to establish a reliable figure for the upper and lower bounds of this

² Neumark and Wascher (1992), “Employment effects of minimum and subminimum wages: panel data on state minimum wage laws”, Industrial and Labor Relations Review, vol.46

<p>uncertainty; it is entirely possible that the track side labour market would make either greater or lesser use of Under 18s employment than the national average.</p>	<p>uncertainty. Therefore an arbitrary sensitivity of 20% each way has been applied to reflect the fact that it would be reasonable to believe that Under 18s may work longer or shorter hours in trackside venues than on average across the UK labour market.</p>
<p>Hours worked by part time and full time employees were based on the Annual Survey of Hours and Earnings (ASHE). This survey reflects the average number of hours that are worked by Under 18s in part time and full time employment across the UK labour market. This is not necessarily representative of the potential trackside labour market, where Under 18s might be able to work longer or shorter hours than the ASHE suggests.</p>	<p>Number of hours that would be worked on average by Under 18s at trackside venues is uncertain, but it is difficult to establish a reliable figure for the upper and lower bounds of this uncertainty. Therefore an arbitrary sensitivity of 20% each way has been applied to reflect the fact that it would be reasonable to believe that Under 18s may work longer or shorter hours in trackside venues than on average across the UK labour market.</p>
<p>Responsiveness of labour demand to a change in the labour price has been based on an academic study of teenage labour from the United States. There is uncertainty in transferring the elasticities derived in the study to the trackside labour market. This is a different market at a different time, where the employment responsiveness to a labour price change might be smaller or larger than the study suggests.</p>	<p>The study finds that teenage labour tends to be inelastic, ranging between -0.1 and -0.3 with a best estimate of -0.2. These values input into the "low", "high" and "central" scenarios respectively, representing a range of possible elasticities for the trackside labour market.</p>

64. It is difficult to assess the impact of the proposed legislative amendment on sub-markets where the wage rate is above NMW. There is not sufficient granularity in the top down data to be able to identify instances where the wage rate is above the NMW and bottom up data does not exist. So the theoretical effects described in paragraph 53 are not quantified. This is an additional area of uncertainty that has not been quantified.
65. The general equilibrium effects of the proposed change in legislation are not considered. These effects are likely to be very small given that the intervention is likely to have a very small impact on the labour market at the aggregate level. Whilst methods such as general equilibrium modelling exist for estimating these sorts of effects in principle, these models are not sensitive enough to accurately appraise small policy interventions such as the preferred option. They are also time and cost resource intensive. In the interests of proportionality, therefore, the general equilibrium effects of the preferred option are not appraised.
66. The previous paragraphs 56-65 identify a variety of effects on that impact on households and businesses. There is a third key economic actor in the economy that might also be affected by these proposals: the exchequer. Taxation is collected on income and profits, both of which might be affected under the proposed option. It is, however, extremely tricky to quantify the impact on the exchequer because it is difficult to make an assumption on the marginal rate of taxation that would be likely to be applied to individuals and businesses. The effect on the exchequer is not quantified. Whilst this information would be useful to have, it is important to note that taxation is a distributional issue and does not interfere with the efficiency arguments for the preferred option.

Results of the economic analysis of the preferred option

67. The results of the quantitative analysis are presented in this section, which discusses benefits, costs, net present value, distributional issues, and the impact on regulatory burden.
68. Prior to presenting the results, however, it is helpful to illustrate the methodology described in paragraphs 56-62 with worked example calculation. This is done for Under 18s benefits on the central estimate. The first step is to calculate the annualised hours of employment before converting this into displacement wage benefits and additional wage benefits. This requires a series of steps set out below:
- (a) All employment trackside = Recreational services employment [354,100] x Spectator sports expenditures [£710] / Recreational services expenditure [£8,588] x Scaling factor [0.75] = 21,956

- (b) Under 18s employment trackside = (a) x Under 18s in total labour force [358,142] / Total labour force [28,862,132] = 272
- (c) Under 18s full time hours = (b) x Under 18s full time employed [63,142] / Under 18s in total labour force [358,142] x Hours per week [41] x Weeks in year [52] = 102,907
- (d) Under 18s part time hours = (b) x Under 18s part time employed [295,000] / Under 18s in total labour force [358,142] x Hours per week [11] x Weeks in year [52] = 133,032
- (e) Discounted value of Under 18s wage demand over appraisal period = $\sum_{t=0}^9 (((c) + (d)) \times \text{National minimum wage rate } [£3.68])_t / (1 + \text{Discount rate } [3.50\%])^t / 10 = £7.47\text{m}$ (see Table 3 below)
69. Benefits of the policy accrue to Under 18s (increased income through displacement of Over 18s and additional demand for labour) and businesses (from reduced wage costs and additional revenues from increased levels of labour). These effects are set out in the table below for the central estimate, along with the results of the sensitivity analysis discussed in paragraph 63 captured in the low and high estimates.

Table 3: Estimates of benefits at present value

Benefit	Central / £m	Low / £m	High / £m
Under 18s income (displacement)	7.47	2.55	17.22
Under 18s income (additional)	0.58	0.10	2.02
Business wage cost savings	4.79	1.63	11.03
Business revenues	0.77	0.13	2.66
Total	13.61	4.42 ³	32.93

70. Costs of the policy accrue to Over 18s (from reduced income as they are displaced by Over 18s) and business wage costs (from increased employment levels). These are presented in the table below for the central estimate, discounted to present value.

Table 4: Estimates of costs at present value

Cost	Central / £	Low / £m	High / £
Over 18s income (displacement)	12.26	4.19	28.25
Business wage cost increase	0.58	0.10	2.02
Total	12.84	4.29	30.27

71. Combining this assessment of benefits and costs derives a central estimate for net present value (NPV) of £0.77m. The low-high range for NPV is £0.13m-£2.66m.
72. This analysis can be presented in terms of the distribution of costs and benefits across major groups in society. Households lose out on the whole with a reduction in income because the cost to Over 18s outweighs the benefits to Under 18s. Businesses gain on the whole, because wage cost savings and additional revenues outweigh the costs of additional employment. The impact on the exchequer is not appraised as discussed in paragraph 66. These effects are described in the following table.

Table 5: Distribution of net present value between stakeholder groups

Stakeholder group	Central / £	Low / £m	High / £
Households	-4.20	-1.53	-9.01
Businesses	4.97	1.66	11.67
Exchequer	Not quantified	Not quantified	Not quantified

³ This total does not equal the sum of the constituent parts due to rounding.

73. The impact on businesses might also be described as the change in regulatory burden. Current regulation stops business from having the option to provide employment to Under 18s. The preferred option relaxes this restriction. This means that in the preferred option will deliver a regulatory “out”. The size of the out is measured by the equivalent annual net cost to business (EANCB), which is the business impact identified above divided by the appraisal period annuity rate. This amounts to -£0.58m under the central estimate of the impact of the preferred option.

Conclusion

74. The economic case presented above demonstrates in both theoretical and empirical terms that the effect of the preferred policy option is likely to be positive on society as a whole. While there are potential winners and losers, there is a clear efficiency gain to be made from pursuing the preferred option.

Risks

80. 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.

81. The Government is therefore mindful of the need to ensure that children and young persons are adequately protected. As already explained, Part 4 of the 2005 Act contains a number of provisions relating to the protection of children and young persons to ensure that children and young persons are not afforded undesirable exposure to gambling. Section 51 makes it an offence to employ a child or young person to provide facilities for gambling. There are some exceptions to this in respect of “softer” forms of gaming such as lotteries and football pools, but there is no exception with regard to betting. So, it is an offence under the 2005 Act to employ a person under the age of 18 years in any capacity which involves that person providing facilities for betting. This protection will remain under our proposals.

82. In addition, licensing authorities have the power to review and potentially revoke a premises licence if its use is not consistent with the licensing objectives of the Act. So concerns in this regard can already be raised and appropriately dealt with under existing provisions.

83. It was also the intention of the 2005 Act for children and young persons to have restricted access to premises which held particular gambling licences. Section 47 prohibits children and young persons from entering a casino, betting shop or adult gaming centre at any time when facilities for gambling are being provided. However, an exception is made regarding access to tracks with betting premises licences. The Act does not prohibit children and young persons from entering a track while betting is being carried on. Furthermore, the restriction on children and young persons entering the betting areas of tracks does not apply in respect of dog tracks and horse-race courses on race days. These exemptions were made for tracks in line with the Government’s view that racecourses and other sporting venues represent a low risk gambling environment for children and young people. Our proposal to allow under-18s to be employed in non-gambling roles is consistent with this provision.

Wider Impacts

Economic / Financial

84. This proposal is a technical amendment designed to rectify a restriction imposed unintentionally by the Gambling Act. As a result only a small number of businesses stand to benefit through the lifting of a restriction and the removal of the risk of criminal sanctions. Cost impacts on and benefits to businesses have been dealt with previously and the analysis suggests that industry will enjoy a net gain as a result of the preferred option. It is possible that some of the businesses impacted operate as micro-businesses. Nevertheless, for the reasons above, it is considered unnecessary to exempt micro-businesses from this proposal since they should be equally able to benefit from the proposals as small, medium and large businesses and no additional regulatory burden is expected to be placed on them.

Social

85. Any wider impacts on social, wellbeing or health inequalities beyond the economic effects described above would be limited. The overall economic impact on society is positive and where costs are imposed on particular stakeholders they tend to be relatively small. Trackside venues are also dispersed throughout the country suggesting that economic effects will not be concentrated in particular areas. This assessment of economic effects suggests that the proposal is at little risk of generating adverse wider social, wellbeing or health inequalities impacts.

Rural

86. Tracks are located in both urban and rural areas, for instance many racecourses are in rural areas and most football stadia are located in urban areas, but it is not expected that the preferred option will have a disproportionate impact on one of these areas.

Environmental

87. The preferred option is not anticipated to have significant environmental impacts. There is no reason to believe 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.

Other impacts

88. 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.

