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STATUTORY INSTRUMENTS

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**2003 No. 3275**

**REGULATORY REFORM**

**The Regulatory Reform (Gaming Machines) Order 2003**

*Made* - - - - *15th December 2003*

*Coming into force* - - *16th December 2003*

Whereas:

- (a) the Secretary of State for the Home Department consulted—
  - (i) such organisations as appeared to him to be representative of interests substantially affected by his proposals for this Order;
  - (ii) the statutory bodies to whose functions his proposals related;
  - (iii) organisations representative of such bodies; and
  - (iv) such other persons as he considered appropriate;
- (b) the Secretary of State for Culture, Media and Sport<sup>(1)</sup> (“the Secretary of State”) consulted the National Assembly for Wales;
- (c) following the consultation mentioned in paragraphs (a) and (b) the Secretary of State considered it appropriate to proceed with the making of this Order;
- (d) a document containing the Secretary of State’s proposals was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001<sup>(2)</sup> and the period for Parliamentary consideration under section 8 of that Act expired;
- (e) the Secretary of State had regard to the representations made during that period and in particular to—
  - (i) the thirteenth Report of Session 2002-03 of the House of Commons Regulatory Reform Committee; and
  - (ii) the nineteenth Report of Session 2002-03 of the House of Lords Delegated Powers and Regulatory Reform Committee;
- (f) a draft of this Order was laid before Parliament with a statement giving details of those representations and the changes to the Secretary of State’s proposals in the light of them;
- (g) the draft was approved by resolution of each House of Parliament;

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(1) By virtue of article 6 of the Transfer of Functions (Miscellaneous) Order 2001 (S.I.2001/3500), anything which is in the process of being done by or in relation to the Secretary of State for the Home Department on the date of coming into force of that Order (26 November 2001), if it relates to a function which relates to gambling, may be continued by or in relation to the Secretary of State for Culture, Media and Sport.

(2) 2001 c. 6.

- (h) the Secretary of State is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise; and
- (i) this Order creates burdens affecting persons in the carrying on of certain activities, and the Secretary of State is of the opinion that—
  - (i) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burdens being created, and
  - (ii) the extent to which this Order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the burdens imposed by the existing law, makes it desirable for this Order to be made;

Now, therefore the Secretary of State, in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, hereby makes the following Order:

#### **Citation, commencement and extent**

1.—(1) This Order may be cited as the Regulatory Reform (Gaming Machines) Order 2003 and shall come into force on the day after it is made.

(2) This Order shall not extend to Northern Ireland.

#### **Amendment of Part III of the Gaming Act 1968**

2.—(1) Part III of the Gaming Act 1968(3) shall be amended in accordance with the following provisions of this article.

(2) In section 26 (machines to which Part III applies), in subsection (1)(b), omit “in the form of cash or tokens”.

(3) In section 31 (use of gaming machines by virtue of licence or registration), in subsection (3), for “shall be a coin or coins inserted in the machine of an amount not exceeding (or, if more than one, not in the aggregate exceeding)” substitute “shall not exceed”.

(4) After section 31(3) insert—

“(3A) Where any such machine on the premises is able to accept payment of the charge for play in any form other than cash, any object capable of being inserted into the machine to pay for a game or games must be redeemable in accordance with subsection (3B) of this section.

(3B) Any such object is redeemable in accordance with this subsection if—

- (a) it is redeemable on demand at the premises where the machine is used for gaming at any time when a machine to which this Part of this Act applies is available for use for gaming at those premises;
- (b) a payment for redeeming it must be made in cash or by cheque (or partly in cash and partly by cheque);
- (c) any such payment must be of the appropriate amount.

(3C) The appropriate amount is—

$$(A + B) - C$$

where—

A is the amount paid by or on behalf of the player for the use of the object;

B is the amount of any prize credited to the object in accordance with subsection (5B) of this section;

C is the amount charged for one or more services, where the object has been used to pay for the services.

(3D) Subsections (3E) to (3H) of this section apply if—

(a) a player inserts into any such machine on the premises something which is recognised by the machine as having a value exceeding the highest coin value;

(b) the machine immediately holds to the player's credit an amount in respect of the thing ("the initial amount") for the purpose of paying the charge for play for playing games by means of the machine.

(3E) The initial amount must not exceed the highest coin value.

(3F) The machine must not hold any further amount to the player's credit for the purpose of paying the charge for play for playing games by means of the machine unless the player takes action in respect of the machine to indicate that he wishes to play, or continue to play, games by means of the machine.

(3G) The further amount held to the player's credit by virtue of subsection (3F) of this section must not exceed the highest coin value.

(3H) The highest coin value is the value of the highest denomination coin which, when the games are played—

(a) is legal tender in the part of the United Kingdom in which the premises are situated, and

(b) is in general circulation in that part of the United Kingdom.”.

(5) In section 31, for subsection (4) substitute—

“(4) In respect of any one game played by means of such a machine on the premises no player or person claiming under a player shall receive, or shall be entitled to receive, any article, benefit or advantage other than—

(a) a prize delivered in the form of cash, or

(b) a prize delivered in a form specified in subsection (4A) of this section.

(4A) The form referred to in subsection (4) of this section is one which enables the person entitled to it to obtain its value—

(a) in the form of cash or a cheque drawn in his favour (or partly in the form of cash and partly in the form of a cheque drawn in his favour), and

(b) on demand at the premises where the machine is used for gaming at any time when a machine to which this Part of this Act applies is available for use for gaming at those premises.”.

(6) In section 31(5), for “the coins delivered by any such machine on the premises as a prize in respect of any one game played by means of the machine shall not in the aggregate exceed” substitute “the value of the prize in respect of any one game played by means of the machine shall not exceed”.

(7) After section 31(5) insert—

“(5A) Subsections (5B) and (5C) of this section apply where a player or person claiming under a player is entitled to receive a prize in respect of a game played by means of such a machine.

(5B) The prize may be delivered by crediting any object which is permitted to be inserted into the machine to pay for a game or games by subsection (3A) of this section.

- (5C) Despite subsection (4) of this section, the person entitled to the prize may choose to use all or part of its value to pay for one or more services at the premises at which the machine is used for gaming.”.
- (8) After section 31(8) insert—
- “(9) In this section “services” includes a game or games on a machine to which this Part of this Act applies.”.
- (9) In section 34(4) (other uses of machines for amusement purposes), in subsections (5A) and (5E), for “(5B) and (5C)” substitute “(5B) to (5C)”.
- (10) In section 34(5B) for “shall be the same as that under subsection (2) of this section” substitute “shall not exceed the amount specified in subsection (2) of this section”.
- (11) After section 34(5B) insert—
- “(5BA) Payment of the charge for play shall be made in cash.
- (5BB) Subsections (5BC) to (5BF) of this section apply if—
- (a) a player inserts into the machine something which is recognised by the machine as having a value exceeding the highest coin value;
- (b) the machine immediately holds to the player’s credit an amount in respect of the thing (“the initial amount”) for the purpose of paying the charge for play for playing games by means of the machine.
- (5BC) The initial amount must not exceed the highest coin value.
- (5BD) The machine must not hold any further amount to the player’s credit for the purpose of paying the charge for play for playing games by means of the machine unless the player takes action in respect of the machine to indicate that he wishes to play, or continue to play, games by means of the machine.
- (5BE) The further amount held to the player’s credit by virtue of subsection (5BD) of this section must not exceed the highest coin value.
- (5BF) The highest coin value is the value of the highest denomination coin which, when the games are played—
- (a) is legal tender in the part of the United Kingdom in which the premises are situated, and
- (b) is in general circulation in that part of the United Kingdom.”.
- (12) In section 34(5D), for “coin” substitute “payment”.
- (13) In section 37 (regulations with respect to machines and records), in subsection (1)(b), after “tokens” insert “or other objects”.
- (14) In section 38 (offences under Part III), in subsection (9)(a), after “token” insert “or other object for use in machines”.

15th December 2003

*Andrew McIntosh*  
Parliamentary Under-Secretary of State,  
Department for Culture, Media and Sport

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under section 1 of the Regulatory Reform Act 2001. It reforms the law contained in Part III of the Gaming Act 1968 relating to the use of gaming machines which has the effect of imposing burdens on people carrying out certain activities.

Section 31 of the Gaming Act 1968 imposes restrictions on the methods of payment for using machines to which that section applies and also on the form in which prizes can be delivered by such machines. This Order removes those burdens by amending Part III of the Gaming Act 1968 to allow payment to be made, and prizes to be delivered, in any form which constitutes money or money's worth. Where payment is made using an object other than cash (such as tokens or a smart card), then it must be redeemable on demand at the premises where the machine is situated at any time when gaming machines are available for use at those premises. Where a machine delivers a prize in a form other than cash, then it must be in a form which enables the person concerned to claim his prize in cash or cheque at the premises where the machine is situated at any time when gaming machines are available for use at those premises.

The Order also amends section 34 of the Gaming Act 1968, except in relation to machines whose maximum prize is determined under section 34 (3), by removing the restriction under which payment of a charge for play can only be made by using a coin or tokens. The effect of removing this restriction is that payment can also be made using banknotes.

Both section 31 and section 34 are amended to provide that where payment is made which is in excess of the value of the highest denomination coin which is legal tender and in general circulation in the part of the United Kingdom in which the premises are situated, the initial amount held to the player's credit for the purpose of paying the charge for play on the machine is not to exceed the value of the highest denomination coin. No further amount is to be added unless the player takes action in respect of the machine to indicate that he wishes to continue to play.

This Order has been notified to the European Commission and the other Member States in accordance with Directive [98/34/EC](#) of the European Parliament and of the Council (OJ No.L204, 21.7.98, p.37) as amended by Directive [98/48/EC](#) of the European Parliament and of the Council (OJ No.L217, 5.8.98, p.18).