

**EXPLANATORY MEMORANDUM TO THE
GAMING ACT 1968 (VARIATION OF MONETARY LIMITS) ORDER 2005**

2005 No. 2776

AND THE

GAMING MACHINES (MAXIMUM PRIZES) REGULATIONS 2005

2005 No. 2775

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 Section 31 of the Gaming Act 1968 (“the 1968 Act”) specifies the conditions which must be met by a gaming machine which is made available in a casino, a bingo club or a members’ club. These conditions include a monetary limit on the charge which may be made for using the machine once, and a monetary limit on the prize payable for a single game played on the machine. The Gaming Act 1968 (Variation of Monetary Limits) Order 2005 introduces new stake limits for gaming machines in casinos, and the Gaming Machines (Maximum Prizes) Regulations 2005 increase the prize limit for gaming machines in casinos.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Part 3 of the 1968 Act governs the making available of machines used for gaming (commonly known as “fruit machines” or “slot machines”). Part 3 allows such gaming machines to be made available in a variety of premises. Different conditions apply depending on the premises in which a machine is made available for use. .

4.2 Section 31 of the 1968 Act specifies the conditions which apply where a machine is to be made available in a casino, bingo club or members’ club (including a miners’ welfare institute). Subsection (3) makes provision about the maximum charge for play for playing a game once by means of a gaming machine to which that section applies. Subsection (5) makes provision about the maximum prize which may be paid for a single game played on such a machine. In each case the existing maximum is specified in subordinate legislation. The Gaming Act (Variation of Monetary Limits) (No.2) Order 1998 specifies the amount of 50 pence as the maximum charge for play for gaming machines in casinos, bingo clubs and members’ clubs. The Gaming Machines (Maximum Prizes) Regulations 2001 specifies the amount of £2,000 as the maximum prize for a gaming machine made available in a casino. By virtue of the

Gaming Machines (Maximum Prizes) Regulations 1998, the amount is £500 in the case of bingo clubs, and £250 in the case of members' clubs.

4.3 The 1968 Act is to be repealed by the Gambling Act 2005. That Act will introduce a comprehensive framework for regulating most forms of gambling. This will include regulating gambling in casinos as well as in other premises. During the passage of the Gambling Bill through Parliament, Ministers proposed raising the 1968 Act charge for play and prize limits for gaming machines in casinos. With regard to the limits on the charge for play, Ministers proposed raising the limit in casinos from 50p to £2, and providing limits which allowed casinos to offer machines which were similar to the fixed odds betting terminals in licensed betting offices. These machines allow the player to stake a total of up to £100 on a single game, but with a prize limit of £500. With regard to prize limits, Ministers proposed raising the prize limit for gaming machines in casinos (other than in the case of the £100 stake machines) to £4,000. The relevant passage of Hansard is at House of Lords 6th April 2005 Vol. 671 Col. 837.

4.4. These instruments give effect to these proposals. The Gaming Machines (Maximum Prizes) Regulations 2005 makes provision about prize limits only in relation to gaming machines in casinos. The Gaming Act 1968 (Variation of Monetary Limits) Order 2005 makes provision about the limit on the charge for play in other premises as well as casinos. However, in these other cases the 50p stake limit is retained.

5. Extent

5.1 The instruments apply to Great Britain.

6. European Convention on Human Rights

The Minister for Sport has made the following statements regarding Human Rights:

In my view the provisions of the Gaming Act 1968 (Variation of Monetary Limits) Order 2005 are compatible with the Convention rights.

In my view the provisions of the Gaming Machines (Maximum Prizes) Regulations 2001 are compatible with the Convention rights.

7. Policy background

7.1 The 1968 Act stake and prize limits on gaming machines in casinos are intended to strike a balance between providing choice for adult gamblers on premises which are licensed for gaming, and protecting those at risk of problem gambling.

7.2 It has been customary for the stakes and prizes to be reviewed on a regular basis since the 1968 Act came into force. The current maximum stake was last increased (from 30p to 50p) in 1998. The maximum prize was increased from £250 to £1,000 in 1998, and then again from £1,000 to £2,000 in 2002.

7.3 When the draft Gambling Bill was published in October 2004, in the accompanying regulatory impact assessment (RIA) the Government announced its intention to set maximum stake and prize limits for the equivalent gaming machines in

casinos under the new legislation at £1 and £2,000 respectively. Casinos would also be permitted machines with £100/£500 stake and prize limits. During the passage of the Bill, Ministers received representations from the casino industry that, as the most highly-regulated sector of the gambling industry, the stake and prize limits could safely be increased from those levels, and at an earlier stage than envisaged in the RIA.

7.4 On 6 April 2005, during the Committee Stage of the Bill in the House of Lords, Lord McIntosh announced that, in view of the protections already in place in casinos, and in the light of the improved safeguards offered by the new system of regulation to be administered by the Gambling Commission, Ministers felt able to offer casinos a number of additional commercial rights, including the changes to stake and prize limits that are being made by these orders. They considered that these changes would enhance competition in the casino industry, without jeopardising the essential priority of ensuring a cautious and gradual approach to the process of gambling reform. Lord McIntosh gave a commitment to introduce these changes before the end of the current calendar year.

7.5 The formal and informal consultation that has taken place on this change is set out in the attached RIA. As with other measures in the Gambling Bill, the question of stake and prize limits on gaming machines has been the subject of considerable Parliamentary scrutiny (including the pre-legislative scrutiny process) and public consultation. This process began with the review of gambling regulation conducted by the Gambling Review Body, which reported in July 2001 (“The Budd Report”).

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is negligible. The Gambling Commission will be responsible for monitoring compliance with the new stake and prize limits as part of its wider regulatory functions relating to gaming machines in casinos. The Gambling Commission will also be responsible for monitoring the social impact of the changes as part of its new responsibility for protecting children and other vulnerable people from being harmed or exploited by gambling. The Commission’s responsibilities in respect of problem gambling issues are explained in more detail in the attached RIA.

9. Contact

David Fitzgerald, Head of Gaming and Lotteries at the Department for Culture, Media and Sport (Tel: 020 7211 6479 or e-mail: david.fitzgerald@culture.gsi.gov.uk) can answer any queries regarding the statutory instruments.

Department for Culture, Media and Sport

Regulatory Impact Assessment

1. Title

Gaming Machines (Maximum Prizes) Regulations 2005
Gaming Act 1968 (Variation of Monetary Limits) Order 2005

2. Purpose and intended effect

a) Objectives

These statutory instruments will vary the stake and prize limits for jackpot gaming machines in casinos. Specifically they will:

- increase the maximum stake from £1 currently to £2;
- increase the maximum prize from £2,000 currently to £4,000;
- permit a new style of jackpot gaming machine with a £100/£500 stake and prize limit.

These changes will take effect from 31 October 2005.

The increase in stakes and prizes, and the introduction of the new style of jackpot machine, are part of an overall package of regulatory reforms for casinos being introduced as a result of the Gambling Act 2005.

The change in stakes and prizes, and allowing the new style jackpot machines, will replace current limits which are no longer considered necessary in order to maintain an appropriate level of protection against the risks of social harm from high prize gaming machines in casinos.

b) Background

The Gambling Act 1968 imposes limits on the stake and prizes that jackpot gaming machines in casinos can offer. These limits are intended to strike a balance between providing choice for adult gamblers in premises which are licensed for gambling, and protecting those at risk of problem gambling.

c) Rationale for government intervention

It has been customary for the stake and prize limits to be reviewed on a regular basis since the 1968 Act came into force. The Gaming Board has conducted these reviews on a triennial basis, before submitting recommendations to Ministers. This has largely been an administrative exercise, subject of course to Parliamentary approval.

The current stake and prize levels were last varied in 1998 (for the stake) and 1998 and 2002 (for the prize). The stake level was increased from 30p to 50p in 1998. The maximum prize level was increased in the same year from £250 to £1,000, and then from £1,000 to £2,000 in 2002. We are not aware of any evidence that these past increases led to any increase in problem gambling among casino customers. The arrangements for monitoring the impact of the changes made here are described in section 5(c) below.

During the passage of the Gambling Bill, now the Gambling Act 2005, the government received representations from the casino industry that, as the most highly-regulated sector of the gambling industry, the stake and prize limits in casinos could safely be increased.

On 6 April 2005, during the Committee Stage of the Bill in the House of Lords, Lord McIntosh announced that, in view of the protections already in place in casinos, and in the light of the improved safeguards offered by the new system of regulation to be administered by the Gambling Commission, ministers felt able to offer casinos some additional commercial rights. They considered that this change would enhance competition in the casino industry, without jeopardising the essential priority of ensuring a cautious and gradual approach to the process of gambling reform.

3. Consultation

a) Within government

The Government has formally consulted the Gaming Board of Great Britain on the change, as required by Section 51(2) of the Gaming Act 1968. The Gaming Board had no objections to the changes.

b) Public consultation

The proposal was announced in Parliament on 6 April 2005 during the Lords Committee stage of the Gambling Bill, now the Gambling Act 2005.

As with other measures in the Bill, the question of stake and prize limits for gaming machines in casinos has been the subject of considerable Parliamentary scrutiny (including the pre-legislative scrutiny process) and public consultation. This process began with the review of gambling regulation conducted by the Gambling Review Body, which reported in July 2001 ("The Budd Report").

Now that the Act is in place, DCMS and the Gambling Commission (which replaced the Gaming Board on 1 October) are working very closely with all interested parties on its implementation. This process is involving extensive consultation with key bodies right across the gambling industry, organisations with an interest in problem gambling and punters.

DCMS has discussed the specific changes with the principal casino industry trade bodies, i.e. the British Casino Association and the Casino Operators Association UK. The changes have also been discussed in a number of meetings with leading companies in the casino industry, and with trade bodies representing other sections of the gambling industry. The Department has also received representations on the subject from the Salvation Army and the Methodist Church. This was a high profile announcement, and has been widely publicised and debated in both the national and trade press.

4. Options

Three options have been considered:

Option 1 – Leave stake and prize limits at current level

This was rejected because no reduction in regulation would result, and the potential for technological innovation would be unnecessarily prevented.

Option 2 – Delay any changes until after formal implementation of the Gambling Act

This option was rejected because the reduction in regulation and the potential for technological innovation would be unnecessarily delayed.

Option 3 – Implement changes now under existing legislation

In reaching their decision to select option 3, Ministers took careful account of a number of factors. They considered that, in the highly regulated environment of casinos, and with the additional protection that the new Gambling Commission would provide, it was safe in regulatory terms to introduce these changes, and to do so now.

5. Costs and benefits

a) Sectors and groups affected

138 casinos currently operating in Great Britain and their customers.

b) Benefits

Casinos will be able to offer their customers a greater choice of gaming machine, and the chance to win higher prizes. It is likely to increase the use and profitability of gaming machines in casinos.

It is difficult to quantify the impact in advance of the casinos taking advantage of the new entitlements. Nevertheless, the increase in both stakes and prizes will undoubtedly prove attractive to players and will enable machine manufacturers to develop new and innovative styles of games and machines that will act as a further stimulus to the sector. Manufacturers in particular have made representations to Ministers about effects that leaving stake and prize limits at their current levels was having. While Ministers do not consider it prudent currently to increase machine stake and prize limits outside casinos, they consider that the position is different in casinos for the reasons set out in this RIA.

The new style jackpot machine, with a stake of up to £100 and a prize of £500, is expected to have a similar impact to Fixed Odds Betting terminals in licensed betting offices (LBOs), which have similar stake and prizes. The terminals in LBOs have proved to be very profitable. It is possible that the new style of jackpot machine in casinos will be similarly popular with casino customers.

c) Costs

There will be no increased administrative costs falling to the public purse as a result of this change.

There may be an increased but unquantifiable risk that the higher stake and prize level will tempt some customers to gamble more than they afford. This in turn may result in increased costs in services to support those with gambling problems.

However, this risk will be mitigated by the existing system of casino regulation, and the voluntary procedures which casinos currently have in place to prevent and address problem gambling. For example, all members of the British Casino Association, which represents over 90% of casinos in the British market, are signatories to its voluntary Code of Best Practice on Gaming and Social Responsibility. All members are required to ensure compliance with the code by including it in their compliance and audit programmes. The COA, which represents the remainder of the industry, has a similar document. Most casinos, including all BCA members, also contribute on a voluntary basis to the funding of the Responsibility in Gambling Trust and other problem gambling organisations like Gordon House.

The current intention is that the stake and prize limits proposed here will be perpetuated once the Gambling Act 2005 comes into force. When that happens, the safeguards listed here will be enhanced by new measures introduced by the new Act. The Gambling Commission, which was formally established on 1 October 2005, will carry over the functions and duties of the Gaming Board and also has a new licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Commission, as part of its overall structure of regulation, will be introducing a number of codes of practice, which will cover issues like access to casinos premises by children and young people and social responsibility. The Commission will be holding consultative workshops and informal meetings from this autumn with draft codes being issued in early 2006. The codes will be brought into effect by the time the Commission is fully operational in the third quarter of 2007. There are also reserve powers in the Act to require the holders of operating licences for casinos and other gambling businesses to pay an annual levy to the Gambling Commission to fund work associated with problem gambling, if the currently voluntary arrangements cease to be effective.

The Commission has also started work on a prevalence study. The aims of the study include estimating the prevalence of problem gambling, which activities have the highest prevalence of problem gamblers and investigating the socio-demographic factors associated with problem gambling. The full report is scheduled to be published in mid-2007.

6. Small firms impact test

A number of casinos are small business, including 14 single casino operators, and these changes represent a new commercial opportunity for casinos in this category. The Government announced its intention to make these changes on 6 April 2005, giving small businesses over 6 months to prepare for this new opportunity.

DCMS has consulted the Casino Operators' Association, which represents a number of the smaller companies in the industry, and it is supportive of the changes.

7. Competition assessment

It is expected that the proposed regulations will have a positive, albeit minor, effect on competition in the casino market.

We have conducted a competition assessment in line with OFT guidance as follows:

Competition filter test questions	
Question	Answer Yes/No
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	Yes
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	Yes
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	Yes
Q9: Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products?	No

The competition filter indicates a positive response to 4 out of 9 questions, which means that a full competition assessment is unnecessary.

The key market that will be affected by the change is the British casino market. In March 2004, there were 138 casinos operating in Great Britain. The market is dominated by four major companies, who between them operate 120 casinos.

These changes are intended to widen the range of gambling opportunities that casinos can offer to their customers. They are, therefore, designed to reduce the regulatory burden on casinos, not increase it, and have been generally welcomed across the market. Casinos will not be required to replace their old gaming machines with machines that offer higher prizes if they do not want to, although many may choose to do so. The costs of installing and maintaining new machines will be the same for all operators in the market, whether they are new or existing players.

While gaming machines are a potentially significant source of turnover and profits for many casinos, they are not the only form of gambling that casinos offer. We do not believe that the proposal will result in any significant changes to existing market structure, not least because the number of machines that casinos are permitted is limited by law to 20 machines.

Finally, the gaming machine sector has traditionally been a very innovative one, and is accustomed to rapid technological change. Increased stake and prize limits will allow even greater creativity and innovation in the design of machines which are operated by casinos.

8. Enforcement, sanctions and monitoring

The Gambling Commission will be responsible for all aspects of monitoring and enforcement in relation to the new stake and prize limits.

9. Implementation and delivery plan

The change will be delivered by the laying of the two statutory instruments listed in 1 above. The change will take effect from 31 October 2005.

10. Post implementation review

The Gambling Commission will monitor any impact of the change on problem gambling as part of its wider work in this area.

11. Summary and recommendation

Ministers have decided to proceed with Option 3 above – to implement the changes now under existing legislation. They are satisfied that this measure can be implemented safely in accordance with their generally cautious approach to gambling reform, and is in the interests of the casino industry and customers.

12. Ministerial declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

.....
Rt Hon Richard Caborn MP
Minister of State

Date

13. Contact point

David Fitzgerald, Head of Gaming and Lotteries, Department for Culture Media and Sport, 2-4 Cockspur Street,
London, SW1Y 5DH
Tel: 020 7211 6479
Email: david.fitzgerald@culture.gsi.gov.uk