

EXPLANATORY MEMORANDUM TO
THE GAMING ACT 1968 (VARIATION OF MONETARY LIMITS) ORDER 2006

2006 No. 2663

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 Sections 31 and 34 of the Gaming Act 1968 (“the 1968 Act”) specify the maximum stake and prize limits for machines used for gaming under Part 3 of that Act. Each section governs machines in different premises, and different limits apply in each case. The Gaming Act 1968 (Variation of Monetary Limits) Order 2006 increases the stake limit for section 31 machines where made available in premises other than casinos. It also increases the stake and prize limits for machines made available under section 34 of the 1968 Act.

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). Machines made available in accordance with section 31 are commonly known as jackpot gaming machines. Subsection (3) makes provision about the maximum charge for play for playing a game once by means of a jackpot gaming machine, and allows the relevant sum to be specified in an order made under that subsection. The current provisions are in the Gaming Act 1968 (Variation of Monetary Limits) Order 2005 (S.I. 2005/2776) which provides for different maxima to apply in the case of casinos and other premises to which section 31 applies. Where a machine is made available in a casino, the amount of the maximum charge for play for the machine depends on the maximum prize payable by the machine. Where the maximum prize does not exceed £500, the maximum charge for play is £100. In any other case, the maximum charge for play is £2. The 2005 Order provided for the maximum charge for play to remain at 50 pence where a machine is made available on any other premises.

4.3 Article 2 of the Order makes provision with respect to the charge for play for jackpot gaming machines. It raises the maximum in the case of non-casino premises

to £1. It re-enacts the provisions with respect to casino premises, maintaining them at their current levels.

4.4. Section 34 of the 1968 Act specifies the conditions which apply where a machine to which Part 3 applies is made available in premises licensed to supply alcohol on the premises, amusement arcades and other non-gambling premises. Machines made available in accordance with section 34 are commonly known as amusements with prizes (AWP) machines. Section 34 effectively makes provision for two types of AWP machine: those which comply with the conditions in subsections (2), (3) and (5), and those that comply with the conditions in subsections (5B) to (5C). The first type is known as the lower value, or Coin and token, AWP machine, and the second as the higher value, or All cash, AWP machine.

4.5. The main difference between the two types of machine is the level and nature of the prizes. The Coin and token AWP machines can deliver money and non-money prizes, the former subject to a maximum of £5 and the latter subject to a maximum limit on its value of £8 (see section 34(3)). The All cash AWP machines can only deliver money prizes, but up to a maximum of £25 (see subsections (5C) and (5D)). In both cases the prize limit is set by subordinate legislation. Subsection (9) of section 34 enables the Secretary of State by order to provide for sums specified in the order to have effect in substitution of sums specified in the section itself. The amount of the prize limits for Coin and token AWP machines are specified in the Gaming Act (Variation of Monetary Limits) (No. 2) Order 1997 (S.I. 1997/2079). The amount of the limit for All cash AWP machines in subsections (5C) and (5D) is specified in the Gaming Act (Variation of Monetary Limits) Order 2001 (S.I. 2001/3971).

4.6. The limit on the charge for play is the same in the case of both types of AWP machine. This arises from the way in which the legislation is drafted. Subsection (2) of section 34 specifies the amount which is the limit for the charge for play for lower value AWP machines. Subsection (5B), which makes provision about the charge for play for higher value AWP machines, states that it is not to exceed the amount specified in subsection (2). The amount of the current limit on the charge for play for AWP machines is 30 pence. This amount is provided for by the Gaming Act (Variation of Monetary Limits) (No. 2) Order 1997.

4.7. Article 3 of the Order makes provision with respect to the maximum charge for play for AWP machines and the maximum prize limit for All cash AWP machines. The limit on the charge for play is increased from 30 pence to 50 pence. The prize limit for higher value AWP machines is increased from £25 to £35.

5. Extent

5.1. The instrument applies 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 2006 are compatible with the Convention rights.

7. Policy background

7.1 In May 2004 the Gaming Board for Great Britain (now the Gambling Commission) submitted to Ministers a review of stake and prize limits with recommendations for changes. Ministers decided that any changes to stake and prize maxima needed to be tied to the introduction of the new regulatory approach to gambling embodied in the proposed Gambling Bill, and in particular to improved measures for protecting children and the vulnerable.

7.2 Ministers published their proposals for changes to stake and prize maxima in October 2004, most of which were to be made when the Gambling Bill (now Gambling Act 2005) was fully implemented (now planned for September 2007). The exceptions to this were changes in limits for jackpot gaming machines in casinos, which were increased from 31 October 2005 by the Gaming Machines (Maximum Prizes) Regulations 2005 and the Gaming Act 1968 (Variation of Monetary Limits) Order 2005.

7.3 In the light of trading difficulties facing the industry, and of a commitment by the industry associations to introduce enhanced voluntary codes on social responsibility designed to prevent underage play and address problem gambling, Ministers have decided to bring forward the introduction of changes to stake and prize maxima for certain machines. In particular, Ministers want to increase the stake limits for jackpot gaming machines located in premises other than casinos, and to increase the stake and prize limits for the All cash AWP machines.

7.4 The Government's policy and intention for the Coin and token AWP machines is however well known and remains unchanged – that the stake and prize maxima should remain at their current levels. This policy will be enshrined in the stake and prize limits for the equivalent (Category D) gaming machines when the Gambling Act 2005 is fully implemented in September 2007. Despite this, the Order will have the effect of raising the stake limits for both the Coin and token and All cash AWP machines to 50p. This is because of the structure of section 34 of the Gaming Act 1968 which requires the stake limit for All cash AWP machines not to exceed that for Coin and token AWP machines. The Government is confident that in practice Coin and token AWP machines will continue to be provided with stakes limits at their current levels. This is based on assurances received from the relevant industry associations. Were those assurances not to borne out in practice, the Government would act to reduce the stake limit for AWP machines to its previous level.

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.

9. Contact

Peter Doogan, Gaming and Lotteries Branch, at the Department for Culture, Media and Sport (Tel: 020 7211 6486 or e-mail: peter.doogan@culture.gsi.gov.uk) can answer any queries regarding the statutory instruments.

Department for Culture, Media and Sport

Regulatory Impact Assessment

1. Title

The Gaming Act 1968 (Variation of Monetary Limits) Order 2006

2. Purpose and intended effect

a) Objectives

To vary stake and prize limits for jackpot gaming machines in bingo halls and clubs (Category B3 and B4 machines under the Gambling Act 2005) and Amusement With Prizes gaming machines (Category C machines). The Order:

- Increases the maximum stake for jackpot machines in bingo halls and clubs from 50p to £1
- Increases the maximum stake for Amusement With Prizes (AWP) machines from 30p to 50p
- Increases the maximum prize for All-cash AWP machines from £25 to £35.

These changes will take effect from 27 October 2006.

b) Background

The Gambling Act 1968 imposes limits on the maximum stakes and prizes that gaming machines can offer. In May 2004 the Gaming Board for Great Britain (now the Gambling Commission) submitted to Ministers a review of stake and prize limits with recommendations for changes. Ministers decided that any changes to stake and prize maxima needed to be tied to the introduction of the new regulatory approach to gambling embodied in the proposed Gambling Bill, and in particular to improved measures for protecting children and the vulnerable.

Ministers published their proposals for changes to stake and prize maxima in October 2004, most of which were to be made when the Gambling Bill (now Gambling Act 2005) was fully implemented (now planned for September 2007). The exceptions to this were changes in limits for jackpot gaming machines in casinos, which were increased from 31 October 2005 by the Gaming Machines (Maximum Prizes) Regulations 2005 and the Gaming Act 1968 (Variation of Monetary Limits) Order 2005.

In the light of trading difficulties facing the industry, and of a commitment by the industry associations to introduce enhanced voluntary codes on social responsibility designed to prevent underage play and address problem gambling, Ministers have decided to bring forward the introduction of changes to stake maxima for certain machines. In addition they have reconsidered the maximum prize for All-cash AWP machines (Category C) machines, and decided to increase it from £25 to £35.

Because of the structure of the 1968 Act, Ministers cannot increase the stake maximum for

All-cash AWP machines (Category C) without at the same time increasing the maximum for Cash/token AWP (Category D) machines as well. Their policy and intention for lower value AWP (Category D) machines is however well known and remains unchanged – that the stake and prize maxima for cash prize machines should be 10p/£5, and for non cash machines, 30p/£8. These limits will be introduced when the Gambling Act 2005 is fully implemented in September 2007. This Order is being introduced on the understanding that the industry associations have given a firm guarantee that no Category D machines with stakes exceeding 30p (the current maximum) will be introduced in the UK between now and the implementation of the 2005 Act.

c) Rationale for government intervention

Controls on the limits for stakes and prizes are an important part of the safeguards to prevent problem gambling.

3. Consultation

a) Within government

The Government has formally consulted the Gambling Commission on the changes, as required by Section 51(2) of the Gaming Act 1968. The Gambling Commission supported the changes.

b) Public consultation

The question of stake and prize limits for gaming machines has been the subject of considerable Parliamentary scrutiny during the process of the Gambling Bill (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 are working very closely with all interested parties on its implementation. This process involves extensive consultation with key bodies right across the gambling industry, organisations with an interest in problem gambling, researchers, local authorities and other interested stakeholders.

DCMS has discussed the specific changes with the principal trade bodies: BACTA, BBPA, BALPPA, BHHPA, Bingo Association and BISL, all of whom support the proposed increases. The changes have also been discussed in a number of meetings with others in the industry and other stakeholders, including faith groups. The problem gambling charity GamCare are happy with the changes.

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 potential for technological innovation would be unnecessarily delayed given the progress made by the industry associations on the enhancement of voluntary codes on social responsibility.

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 (particularly the enhancement of voluntary codes on social responsibility, the trading conditions facing the industry and the views of the Gambling Commission and other stakeholders) and concluded that it was safe in regulatory terms to introduce these changes, and to do so now.

5. Costs and benefits

a) Sectors and groups affected

According to Gambling Commission and BACTA figures, there were 235,000 gaming machines in Great Britain in 2005. These comprise 192,000 AWP machines (all cash and cash and token), 25,000 club or jackpot machines and 17,000 pinball, pusher and crane grab machines. The premises on which gaming machines affected by the proposed stake and prize increases are sited are bingo halls (679, of which 73 are seasonal), clubs (19,000), pubs (60,000) and other licensed premises, and arcades (2,000). These types of premises account for more than 90% of the locations of gaming machines. Although it is not possible accurately identify the number of premises and machines that will take advantage of the stake and prize increases, it is clear that the increases will have an impact on a very significant number of premises. The gaming machine industry employs 22,000 people and had a gross turnover of £10.3bn in 2005.

Fruit machines are a popular form of gambling. In 1999 20% of men and 8% of women reported they had played fruit machines at least once in the previous twelve months. They are most popular amongst younger age groups. There are significant levels of play amongst under 16s (who can legally play lower value (category D) AWP machines). Recent research has suggested that problem gambling amongst 12 – 15 year olds is higher than amongst adults, but has fallen from 5.6% in 1997 to 3.5% in 2006.

b) Benefits

Machine providers 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 enjoyment of machines by players and lead to greater profitability for machine operators, suppliers and manufacturers.

It is difficult to quantify the impact in advance of the operators 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.

c) Costs

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

The definition of the Category C machine contained in the Finance Act and which determines the level of Amusement Machine Licence Duty payable limits the prize to £25. Unfortunately, this cannot be changed until the Budget. It is our intention to raise this to £35 then, in line with the Order under the 1968 Act. This means that until then any machine which offers a prize in excess of £25 will be subject to a higher level of duty (£1780 pa rather than £735 pa). It is, of course, a matter for commercial decision whether operators wish to take advantage of the new maximum.

There may be an increased but unquantifiable risk that the higher stake and prize level will tempt some customers to gamble more than they can afford. This in turn may result in increased costs in services to support those with gambling problems. This risk will be mitigated by the introduction of enhanced voluntary codes on social responsibility by the industry associations.

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 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 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

With the exception of bingo, where Gala and Mecca (Rank) account for 45% of the 600 or so all-year-round clubs, and pub chains, the majority of other operators in the sectors are small scale. The proposed changes in stakes and prizes will provide greater flexibility for all operators, machine suppliers and manufacturers to refresh their machine “offer” and generate greater income.

7. Competition assessment

It is expected that the proposed regulations will have a positive, albeit minor, effect on

competition. We have conducted a simple competition assessment in line with BRE/OFT guidance.

These changes are intended to widen the range of gambling opportunities that machine operators can offer to their customers. They are, therefore, designed to reduce the regulatory burden on operators, not increase it, and have been generally welcomed across the market. Operators 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.

We do not believe that the proposal will result in any significant changes to existing market structures. 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.

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. The industry associations will be monitoring and enforcing their enhanced, voluntary codes of practice.

9. Implementation and delivery plan

The change will be delivered by the laying of the statutory instrument listed in 1 above. The Department will seek to raise awareness of the changes in the industry through its normal industry and licensing authority networks. The change will take effect from 27 October 2006.

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. We will also monitor the changes through our stakeholder groups: the DCMS Industry Liaison Group; the DCMS Community Liaison Group; the DCMS Premises Licence Working Group; and, the LACORS Gambling Reform Policy Forum.

11. Summary and recommendation

Option	Benefits	Costs
1 Leave limits at current levels	<ul style="list-style-type: none"> • Smaller risk of increasing problem gambling 	<ul style="list-style-type: none"> • Industry unable to respond to trading conditions • No innovation for gamblers • No early action on social responsibility
2 Delay changes until Gambling Act is implemented	<ul style="list-style-type: none"> • Reduced risk in respect of problem gambling 	<ul style="list-style-type: none"> • Industry unable to respond to trading conditions for a year • No innovation for

		gamblers for a year • No early action on social responsibility
3 Implement changes now	<ul style="list-style-type: none"> • Industry able to respond to trading conditions • Innovation for gamblers • Early action on social responsibility 	<ul style="list-style-type: none"> • Possible increase in problem gambling, mitigated by early action on social responsibility

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

Gaming and Lotteries Branch, Department for Culture Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH Tel: 020 7211 6486