

**EXPLANATORY MEMORANDUM TO**  
**THE GAMING MACHINE (SINGLE APPARATUS) REGULATIONS**

**2007 No. 2289**

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. This memorandum covers regulations which define what constitutes a single gaming machine for the purposes of the Gambling Act 2005. Where apparatus which is a gaming machine can be used by more than one person at the same time, it is to be counted as the number of gaming machines equal to the number of players able to use it at that time.

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

None

**4. Legislative Background**

4.1. These regulations have been made as part of the wider programme of work to implement the Gambling Act 2005 (“the 2005 Act”), specifically in relation to gaming machines.

4.2. The 2005 Act establishes a new system of regulation for gaming machines, which replaces the previous system of regulation under Part III of the Gaming Act 1968 (c.65). The new system will control where gaming machines can be made available for use, their manufacture and supply, and the circumstances in which they can be used, including age limits for use.

4.3. Regulations have already been made under section 236 of the 2005 Act (categories of gaming machine) (SI 2007/). Regulations are due to be made shortly under sections 240 (circumstances of use) and 241 (supply etc.) of the 2005 Act.

4.4. Section 235 of the 2005 Act contains a new definition of gaming machine: “a machine which is designed or adapted for use by individuals to gamble”. That section also provides for a series of exemptions for certain forms of equipment from this general definition (subsection (2)).

4.5. Section 235(5) contains a power to provide for circumstances in which a single piece of apparatus which is a gaming machine, is to be treated as more than one gaming machine.

4.6. In various Parts of the 2005 Act, rules are laid down about how many gaming machines particular premises are authorised to use, or giving powers for a maximum number to be determined by licensing authorities:

- Section 172 prescribes the limits on the number of gaming machines that can be used by the holders of certain categories of premises licence e.g. betting premises and bingo premises;
- Sections 271 and 273 provides limits on the maximum number of gaming machines that clubs and miners' welfare institutes holding different permits can use; and
- Section 282 sets out an automatic entitlement to two gaming machines for alcohol licensed premises, and section 283 and Schedule 13 provide for permits for an additional number of gaming machines, at the discretion of the licensing authority.

4.7. This is the first use of the powers under section 235(5).

## **5. Territorial Extent and Application**

This instrument applies to England & Wales and Scotland.

## **6. European Convention on Human Rights**

This instrument is subject to negative resolution procedure and does not amend primary legislation, therefore no statement is required.

## **7. Policy background**

7.1. The gaming machine industry has undergone many technological advances since the Gaming Act 1968, which contains the existing regulatory regime for gaming machines. A gaming machine no longer needs to comprise a single unit with mechanical apparatus within it. Software supplied to the machine from a server located elsewhere can generate the gambling offered to a wide number of terminals. Equipment can be designed to accommodate a number of players, each playing individually against the machine, or even, in theory against one another.

7.2. The Gambling Act 2005 contains a new regulatory regime for gaming machines to take account of these advances. As described in section 4 above, the Act also provides specific numerical limits on the number of gaming machines allowed in different types of gambling and non-gambling establishments.

7.3. There has long been a general understanding that a single gaming machine is a machine which one player can use. Indeed, this is the approach adopted by the Gambling Commission currently (and its predecessor the Gaming Board for Great Britain), but it is not set down in any legal instrument.

7.4. The Department believes that it is important for the new regulation of gaming machines, under the 2005 Act, for the principle that one player position equals one gaming machine to be made legally certain.

7.5. The means for doing this are the powers under section 235(5) of the Act. The Department's policy therefore is that where:

- a single piece of apparatus meets the gaming machine definition in section 235(1) and (2) of the 2005 Act; and
- it has more than one player position,

each player position will count as one gaming machine.

7.6. We view this proposal as important for establishing and maintaining clarity with manufacturers, operators and players alike. The proposals are not intended to constrain the development of machine design and manufacture. But they are intended to ensure that no abuse of limits on machine numbers takes place now, or in the future. Manufacturers will remain free to configure machines which players and operators together require, but the creation of equipment on which multiple players can gamble, will not be allowed to undermine the rules set out by the Act on machine numbers.

7.7. The Department considers that these rules will provide an extra layer of security to ensure that the rules determined by Parliament, or to be imposed at the discretion of licensing authorities, on the maximum numbers of gaming machines permitted in premises are safeguarded.

7.8. It should be noted that under the Act, there will be nothing to prevent operators from storing spare gaming machines on their premises, to cover for broken machines, or to provider alternatives. The rules on numbers in the 2005 Act apply to making a specific number of gaming machines *available for use*, and therefore it is the number of machines that an operator makes available at a particular time that is the key factor.

### ***Consultation***

7.9. The policy for these Regulations was first subject to public consultation in a policy document published on 9th February 2007. This was followed by further consultation, and a copy of the Draft Regulations published on 1<sup>st</sup> May 2007. The Department received very little comment on this policy area, and no adverse comments on the Department's approach or the draft Regulations. The Regulations have not been amended since the consultation draft.

## **8. Impact**

No Regulatory Impact Assessment has been prepared for these Regulations as they provide a technical definition and therefore, of themselves, have no impact on business, charities or voluntary bodies.

## **9. Contact**

Ben Melton at the Department of Culture, Media and Sport Tel: 0207 211 6495 or e-mail: Ben.Melton@culture.gsi.gov.uk can answer any queries regarding the instrument.