EXPLANATORY MEMORANDUM TO

THE BETTING AND GAMING DUTIES ACT 1981 (AMENDMENT) ORDER 2011

2011 No. 1753

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 Part II of the Betting and Gaming Duties Act 1981 makes provision for the taxation of gaming machines by way of amusement machine licence duty (AMLD). The amount of duty that is charged for a licence is dependent on the category of machine for which the licence is granted. The machine categories in section 23 of the Betting and Gaming Duties Act are defined by reference to the maximum cost to play a game and the maximum value of prize from a game.

2.2 This instrument amends the definition of a Category B3 gaming machine so that this category of machine is now defined by reference to a cost to play of £2.

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

3.1 None.

4. Legislative Context

4.1 This Order is made in exercise of the powers conferred by section 23(7) of the Betting and Gaming Duties Act 1981. This is the first time that this power has been used.

4.2 The Order amends the definition of a Category B3 gaming machine in section 23(3) by increasing the qualifying threshold for the cost of a single game from £1 to £2.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary has made the following statement regarding Human Rights:

In my view the provisions of the Betting and Gaming Duties Act 1981(Amendment) Order 2011 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 Section 23(3) of the Betting and Gaming Duties Act 1981 defines the categories of gaming machines for the purposes of AMLD.

7.2 The categories of gaming machines described at section 23(3) have traditionally mirrored those provided for regulatory purposes by the Gambling Act 2005.

7.3 Recent changes to the definition of a Category B3 machine for regulatory purposes means that the definitions for tax and regulatory purposes are out of line.

7.4 This statutory instrument brings the definitions back into line.

- ***Consolidation***

7.5 This statutory instrument amends section 23(3) of the Betting and Gaming Duties Act 1981. It is not proposed to consolidate this legislation.

8. Consultation outcome

8.1 A consultation exercise has not been undertaken in connection with this statutory instrument as it is considered that it would impose disproportionate burdens on businesses to consult on a matter that has minimal impact on administrative burdens and no impact on tax liability.

9. Guidance

9.1 No guidance will be issued as the statutory instrument simply maintains the established liability of a certain category of gaming machine.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal.

10.2 The impact on the public sector is minimal.

10.3 A Tax Information and Impact Note has been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to any business that makes gaming machines available for play. It imposes no burdens on those businesses. No negative impact on small firms is anticipated.

12. Monitoring & review

12.1 The intended outcome of this instrument is to bring the AMLD legislation in respect of gaming machine categories back into line with established policy. The outcome will be subject to internal review to ensure it has had the desired effect.

13. Contact

Brian O'Kane at Her Majesty's Revenue and Customs Tel: 0161 827 0325 or email: brian.okane@hmrc.gsi.gov.uk can answer any queries regarding the instrument.