EXPLANATORY MEMORANDUM TO

THE CATEGORIES OF GAMING MACHINE (AMENDMENT) REGULATIONS 2014

2014 N XXXX

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. Purpose of the instrument

2.1 These Regulations amend the definitions for certain categories of gaming machine as set out in the Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158) ("the Gaming Machine Regulations"). The effect of these amendments is to increase the stake limit for sub-Category B1, B3A and B4 gaming machines and one type of Category D gaming machine. It also has the effect of increasing the prize limit for gaming machines belonging to sub-Category B1 or B4, as well as Category C and one type of Category D gaming machine.

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

3.1 None.

4. Legislative context

4.1 The Gambling Act 2005 (c.19) ("the 2005 Act") established a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting.

4.2 Section 235(1) of the 2005 Act defines a "gaming machine" as a "machine which is designed or adapted for use by individuals to gamble". Subsection (2) sets out a list of exceptions to this general definition for certain forms of equipment that might be used for gambling in some circumstances.

4.3 The Gaming Machine Regulations define four categories of gaming machine (known as Categories A, B, C and D) for the purposes of the 2005 Act, and divide Category B into sub-Categories. The definitions largely operate by reference in those Regulations to a maximum amount a person can pay to use a gaming machine once ("stake"), and a maximum prize value which can be won as a result of playing a gaming machine once ("prize").

4.4 These Regulations amend the definitions for certain categories of gaming machine in the Gaming Machine Regulations so as to increase the maximum stake, the maximum prize or both, as follows:

a) for a sub-Category B1 machine:
    i) the maximum stake will increase from £2 to £5, and

ii) the maximum prize value will increase from £4,000 to £10,000 or, where the prize value available through the use of that machine is or may be linked to use of another sub-Category B1 gaming machine situated on the same premises, £20,000;

b) for a sub-Category B3A machine, the maximum stake will increase from £1 to £2;

c) for a sub-Category B4 machine:
   i) the maximum stake will increase from £1 to £2, and
   ii) the maximum prize value will increase from £250 to £400;

d) for a Category C machine, the maximum prize value will increase from £70 to £100; and

e) for a Category D combined money and non-money (coin pusher/penny falls) machine:
   i) the maximum stake will increase from 10 pence to 20 pence, and
   ii) the maximum prize value will increase from £15 (of which no more than £8 may be a money prize) to £20 (of which no more than £10 may be a money prize).

5. Territorial extent and application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 The Parliamentary Under-Secretary of State, Helen Grant MP, has made the following statement regarding Human Rights:

"In my view, the provisions of the Categories of Gaming Machine (Amendment) Regulations 2014 are compatible with the Convention rights."

7. Policy background

7.1 In October 2011, the Department for Culture, Media and Sport announced the reintroduction of a periodic review to consider the level of monetary limits on stakes and prizes applied to gaming machines in Great Britain through the Gambling Act 2005. The first review held under these new arrangements concluded in October 2013, following a period of public consultation.

7.2 The review considered how gaming machine stake and prize limits might be amended to help create the conditions for growth, while continuing to ensure adequate public protection. The British gambling industry is a significant part of Great Britain's leisure economy, and gaming machines are an important source of revenue for the betting, bingo, casino, arcade, pub and club sectors.

7.3 This package of measures is designed to provide assistance to sectors of the gambling industry that have struggled recently with difficult trading conditions by allowing them to develop certain revenue streams in order to prevent further closures of premises and job losses. .

7.4 The Gambling Commission's industry statistics (compiled from regulatory returns submitted by operators to the Commission) indicate the extent to which some sectors of the gambling industry have suffered in recent years. For example, the arcade sector has seen an average 21% reduction in revenues since 2007 and more than 290 arcades have closed since 2009/10 with a loss of more than 900 jobs. Similarly, data provided by the Bingo Association shows that 137 bingo clubs have closed since 2005, while net revenues declined by 27% between 2005 – 2010 and total industry profits dropped by 51% over the same period. According to data supplied by the British Beer & Pub Association, income from gaming machines across the pub sector has declined dramatically since 2002 which, to some extent, reflects the steady decline in pub numbers over the same period. We also understand that members' clubs and commercial clubs rely on gaming machines as a source of income. Finally, while the casino sector has remained relatively stable since 2008, this has not translated into growth. Capital investment in the casino industry has declined sharply from 2007, with capital expenditure at the end of 2009 standing at less than half the level it was in 2004. In addition, the number of people employed by the industry has fallen by 10% over the same period.

7.5 The challenges faced by individual sectors have had a marked effect on gaming machine manufacturing and supply businesses. According to the Gambling Commission, the total number of machines in the regulated industry has reduced by 10% between 2009/10 to 2010/11. Our analysis suggests that these measures will provide a stimulus to gambling operators and the gaming machine manufacturing and supply sectors as demand for new products rises.

7.6 Ahead of consultation, the Government made clear that the industry must make progress in developing enhanced social responsibility measures in order to build the public confidence needed to support growth and innovation in the gambling industry. This has led to the development of a number of industry codes and frameworks which aim to increase the effectiveness of player protection measures, and to ensure that industry data is captured and assessed more systematically. The Government's assessment that the proposed changes to stake and prize limits will secure continued public protection while encouraging growth is made on the basis that the industry delivers against the commitments it has made to improve its social responsibility and player protection measures.

8. Consultation outcome

8.1 A public consultation ran from 15 January 2013 to 9 April 2013. Over 9,500 consultation responses were received from a wide range of interested parties, although the majority of these were made up of identical responses from employees or customers of bookmakers. 66 unique responses were received with representations from trade associations, businesses, faith and community groups, academics and think tanks, local authorities, charities, sports bodies and members of the public. Responses can be summarised as follows:

- The re-introduction of a triennial review was supported by the majority of respondents, representing a breadth of interests.

- 63% of respondents agreed that the Government should reject proposals to maintain existing stake and prize limits for all categories, primarily on the grounds that it would continue to force the decline of some sectors.
- Proposals to increase stake and prize limits in line with inflation were strongly rejected, with 74% of respondents agreeing with the Government's assessment that this would not create sufficient conditions to encourage growth and development of the gaming machine market.
- Around 50% of respondents agreed with the Government's assessment of industry proposals to increase stake and prize limits, while 20% disagreed and a further 16% had mixed views. Many respondents felt the proposals had some merit but concerns were expressed about the social impact of some changes.
- The Government's preferred option was supported by a wide range of respondents. In particular, an increase in maximum prize to £100 for category C was strongly supported, while there was also majority support for increases to category B1, B3A and B4 machines.
- Respondents had mixed views on the benefit of the Government's proposed increases to category D machines, and concerns were raised about the potential risk to children of adopting the industry's preferred option for this category.
- There remains a serious case to answer in relation to the potential harm caused by category B2 gaming machines and we consider their future to be unresolved pending further work, which is already underway.

9. Guidance

9.1 No additional guidance will need to be issued, although the Gambling Commission's existing guidance will be amended to reflect the new stake and prize limits.

10. Impact

10.1 Our analysis suggests that businesses will benefit directly as a result of these changes and it is estimated that the proposals will provide a net benefit to business of approximately £34m per year. There are direct benefits associated with the proposals. On the basis that the gambling industry will take advantage of more liberal market conditions, significant revenue increases for retailers are expected. This estimate is based on industry and Gambling Commission data and is equal to £139m in present value terms over the appraisal period, which is an equivalent annual benefit to business of £48m. Investment will be needed to realise this potential demand. This is recognised as a direct cost that accrues to retail businesses. This estimate is based on industry and Gambling Commission data and is equal to £42m in present value terms over the appraisal period, which is an equivalent annual cost of £15m. Indirect benefits will also be felt by machine suppliers as they benefit from increased demand driven by this investment. Social impacts resulting from increased gambling have been assessed by the independent Responsible Gambling Strategy Board (RGSB). They concluded that there is currently insufficient evidence to establish a clear link between, and assess the impact of, changes in stake and prize limit on gambling related harm. However, work is underway to better enable such an assessment to be made in future (see section 12 below).

10.2 The Government is satisfied that the instrument will have no impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the www.legislation.gov.uk website.

11. Regulating small business

11.1 The alterations made by this instrument will benefit all businesses entitled to offer gaming machines under the 2005 Act.

11.2 The Government is satisfied that this instrument does not impose any compulsory costs or new burdens on businesses.

12. Monitoring and review

12.1 The monitoring and review arrangements for this legislation are set out at Annex A (page 35) of the accompanying Impact Assessment. The Government's intention in reintroducing triennial reviews of gaming machine stake and prize limits is to establish a more rigorous system which allows for robust assessment of the impact of stake and prize changes. Future reviews on a more structured basis should provide greater certainty to the industry over when regulatory changes are likely to be considered in order that it can plan its research, development and investment activity accordingly. It will also allow for systematic analysis of the impact of any changes on gambling behaviour.

12.2 Fundamental to the establishment of triennial reviews is the development of a suitable data framework to support longer term assessment of the impact of stake and prize changes. Work led by the Responsible Gambling Strategy Board and Responsible Gambling Trust is underway to ensure such a framework is developed in a way that will allow businesses to:

- Benchmark the impact of current and new machine structural features on gaming machine play;
- Explore the potential of machine player data to identify markers of problematic machine gambling behaviour;
- Understand the feasibility and effectiveness of new dynamic player-led harm minimisation tools;
- Understand the wider needs in terms of wider prevention and treatment activities to support any changes in the impact from gaming machines upon problem gambling levels and the corresponding need for treatment services.

12.3 The Government is clear that future reviews must be informed by evidence as to the impact, both socially and economically, of the changes recommended as part of this review. We are equally clear that it is incumbent on the industry to provide data to enable consideration of future proposals. We expect the industry to begin now to implement plans for the collection and analysis of data for any future review, which will allow for the data framework to be populated on a systematic basis. The next review of gaming machine stake and prize limits is expected to conclude by 2016.

13. Contact

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