EXPLANATORY MEMORANDUM TO

THE CATEGORIES OF GAMING MACHINE REGULATIONS 2007

2007 No.

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

This memorandum covers one set of regulations which define classes of gaming machines for the purposes of the Gambling Act 2005 ("the Act"). Section 236 of the Act requires the Secretary of State to make regulations which define four categories of gaming machine to be known as A, B, C and D, and which divide Category B into sub-categories. The purpose of these regulations is to complete the regulatory package which will dictate what types of gaming machine can be used on different premises in Great Britain.

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 2005 Act. They are the first use of these powers.

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 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)).

4.4 Section 236 requires the Secretary of State to define four classes of gaming machine (A, B, C and D). Section 236 also requires the Secretary of State, through these regulations, to sub-divide Category B. Subsection 236(4) provides that the regulations may define the different categories of machine by reference to:

(a) amounts paid in respect of the use of the machine (often referred to as "the stake");
(b) the value or nature of prizes;
(c) the nature of the gambling for which the machine can be used; and
(d) the premises where a machine is used.

4.5 Section 236(2)(b) also requires that the regulations make it clear, where there is a reference to Category B machines elsewhere in the 2005 Act, to which sub-category of Category B it shall be treated as referring. This is relevant primarily to establishing which sub-category of Category B machine different premises are entitled to offer under the 2005 Act (e.g. under section 172).

4.6 Part 8 of the 2005 Act establishes the framework of regulation for gambling premises. Section 172 establishes the following limits on the number and principal category of gaming machines which different premises licensed under the 2005 Act will be permitted to offer:

Table 1 – principal entitlements under section 172

Premises licence	**Category A**	**Category B**	**Category C**	**Category D**
Adult gaming centre		Up to 4	Any number	Any number
Family Entertainment Centre			Any number	Any number
Regional casino	Up to 1,250 machines of Category A, B, C or D			
Large casino		Up to 150 machines of Category B, C or D		
Small casino		Up to 80 machines of Category B, C or D		
Bingo		Up to 4	Any number	Any number
Betting		Up to 4		
Track (if holder also holds pool betting operating licence)		Up to 4		

4.7 The 2005 Act also provides for a number of other premises to offer gaming machines by means of a permit, a notification, or in one case a bare authorisation on the face of the Act, as follows:

(a) Unlicensed family entertainment centres may offer any number of Category D gaming machines pursuant to an FEC gaming machine permit (section 247 of and Schedule 10 to the 2005 Act);
(b) Pubs and other alcohol licensed premises with a bar will have an automatic entitlement to offer up to two Category C gaming machines, which they may exercise by means of a simple notification process (section 282 of the 2005 Act).
(c) Pubs and other alcohol licensed premises with a bar, can also obtain an alcohol licensed premises gaming machine permit authorising the use of 3 or more gaming machines of Category C or D (section 283 of and Schedule 13 to the 2005 Act);

(d) Clubs and miners welfare institutes may obtain a club gaming permit or club machine permit authorising the use of up to three gaming machines of Category B, C or D (section 271, 273 of Schedule 12 to the 2005 Act); and
(e) Travelling fairs may offer an unlimited number of Category D machine (section 283 of the 2005 Act).

4.8 By virtue of The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (SI 2006/3272), existing casinos which were licensed under the Gaming Act 1968 will continue, once the 2005 Act is implemented, to be able to offer up to 20 gaming machines of Category B, C or D, or alternatively may opt to offer any number of gaming machines of Category C or D.

4.9 Part 4 of the 2005 Act establishes a series of offences concerning underage gambling . It will be an offence to invite, cause or permit a child or young person to gamble on any gaming machine **except** Category D machines (section 46). A reserve power has been included in the 2005 Act which would enable the Secretary of State by order to create an offence of inviting, causing or permitting a child below a specified age to use a Category D gaming machine (section 59).

5. Territorial Extent and Application

This instrument applies to England & Wales and Scotland.

6. European Convention on Human Rights

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

In my view the provisions of the Categories of Gaming Machine Regulations are compatible with the Convention rights.

7. Policy background

Machines and Premises

7.1 The categorisation of gaming machines in these Regulations is a vital tool in delivering the licensing objectives of the 2005 Act.

7.2 The 2005 Act's control of gaming machines is based on there being different categories of gaming machines which are appropriate for use in different locations and by different ages of user. The appropriateness depends upon:

- the use and nature of the premises e.g. gambling or non-gambling premises,
- the degree of regulation to which the premises are subject, and
- the identity and age of potential visitors to the premises.

7.3 The controls set out in the Act deliver a basic policy principle which is that Category A machines will have the greatest gambling allowances and category D machines will have the lowest. These Regulations adopt and develop this principle.

7.4 The Act itself determines which types of premises may make Category A, C and D machines available for use. While a number of premises may make Category B machines available for use under the Act, the Secretary of State is required to further divide Category B into sub-categories, and allocate their use. These Regulations propose 5 such sub-categories, and allocate them to specific premises (B1-B4). Again, the allocation of B1-B4 has been made following an assessment of the appropriateness of different gambling offerings for the nature of the premises concerned, with a Category B1 machine offering higher stakes and prizes than a Category B4 machine.

7.5 Therefore, the result of the 2005 Act, combined with these Regulations is that:

- Category A and B1 machines, which will only be permitted in the highly-regulated environment of casinos;
- Category B2 machines, will be permitted in licensed betting premises;
- Category B3 machines will be permitted in licensed bingo halls and adult gaming centres;
- Category B3A machines will be permitted in members' clubs and miners' welfare institutes;
- Category B4 machines will be permitted in members' clubs, commercial clubs and miners' welfare institutes;
- Category C machines will be permitted in pubs and the adult-only areas of family entertainment centres (arcades); and
- Category D machines, which will be the only class of gaming machine that can be used by children and young people, will be permitted in family entertainment centres (arcades).

Approach to defining categories

7.6 Under the Gaming Act 1968, stakes and prizes were the defining elements used to distinguish between different classes of gaming machine (e.g. under sections 31 and 34). The government believes that stake and prize levels should continue to be the primary means by which the new categories of machine created by the Gambling Act 2005 are defined. Stake and prize levels are fundamental to (a) the nature of gambling offered by the machine, and (b) whether the machine can be considered a relatively safe amusement (like a crane grab or penny pusher), or a harder and potentially more addictive form of gambling (like a high stake-high prize gaming machine).

7.7 Section 236 enables the Secretary of State to define the categories of gaming machine by reference to other matters including the nature of the prize, the nature of the gambling for which the machine can be used and the premises where a machine is used. Whilst stake and prize levels remain the primary means by which the new categories of machine are defined, the breadth of these powers has enabled the Secretary of State to specify certain matters, in addition to stake and prize levels, with which certain categories of machine must comply. In relation to Category B3A machines, the Regulations set specific requirements for the nature of the gambling for which the machine can be used, and the type of premises on which it may be used in addition to setting the maximum stake and prize levels for Category B3A machines. In relation to Category D machines, these Regulations set different stake and prize levels, depending on whether the prize available is a money or non-money prize. Notwithstanding these two circumstances, the government believes that a categorisation based primarily on

stake and prize limits remains the best approach to take in these Regulations, but that the effectiveness of this approach should also be monitored over time.

7.8 It should be noted, however, that the government is consulting separately on proposals for regulations under section 240 of the Act which will control the circumstances in which a gaming machine is made available for use, including by reference to the nature of prizes they may offer. It is the Government's proposal that these section 240 Regulations will include rules which would prohibit any gaming machine other than a Category D machine from offering non-money prizes.

Policy development

7.9 Following the publication of the Gambling Review Body's report in July 2001[1], the detailed policy in relation to the categorisation of gaming machines has evolved during the various stages of development of the Gambling Bill, and in the light of the responses the Government received to successive consultation documents. Detailed proposals for stake and prize limits for the new categories of machine were published in the draft regulatory impact assessment which accompanied the introduction of the draft Gambling Bill to Parliament in October 2004. It included a table summarising the Government's proposals at that time:

Table 2 – Gambling Bill proposals

Category	Maximum stake	Maximum prize	Location(s)	Maximum number per premises
A	Unlimited	Unlimited	Regional casinos	1250
B1	£1	£2,000	All casinos	80 in small casinos; 150 in large casinos
B2	£100 per game	£500	As above plus premises licensed for betting	4
B3	£1	£500	As above plus Bingo clubs and adult gaming centres	4
B4	£1	£250	As above plus clubs and miners' welfare institutes	3
C	50p	£25	As above plus premises licensed for alcohol	2, but may apply for more to local authority

[1] CM5206

D	10p (30p when non-money prizes)	£5 (cash or non cash)	As above plus family entertainment centres and travelling fairs.

7.10 During the passage of the Gambling Bill through Parliament, and after the Gambling Act 2005 received Royal Assent, the industry has lobbied for an increase in the levels of the stakes and prizes (from those set out in table 2) which would apply to gaming machines on implementation. A number of modifications have been made to these proposals as a result, and are reflected in these Regulations. Details of these changes are set out below.

Non-money prize level for Category D machines

7.11 The proposed £5 limit on prize levels for Category D machines at the time of the Bill was a reduction from the £8 prize currently permitted in equivalent machines under the Gaming Act 1968. The Government had proposed this reduction because Category D machines would be the only class of gaming machine which children would be permitted to use under the 2005 Act. At Lords Second Reading (22 February 2005 HL Col 1140), Lord McIntosh announced a change of policy, indicating that the Government had accepted that £8 non-money prizes like teddy bears in crane grabs and similar machines had not caused significant problems. For this reason, and in the light of the new controls over gaming machines to be delivered by the Bill, the Government proposed to retain an £8 prize limit for non-money prizes in Category D machines. These Regulations deliver this.

Increase in stake and prize levels for Category B1 machines in existing casinos

7.12 In its national policy statement on casinos of 16 December 2004, the Government announced its intention to place strict limits on the number of new casinos which would be permitted to be licensed under the 2005 Act, while an assessment was undertaken of the impact of this new style of casino on problem gambling. In that policy statement, the Government also announced that existing casinos which did not apply successfully for one of the limited number of new licences available would retain their existing gaming and gaming machine entitlements under the 1968 Act.

7.13 During Committee in the House of Lords (6 April 2005 HL 836-7), Lord McIntosh explained why the Government did not consider it prudent to allow all existing casinos to convert into new-style casinos immediately. However, he also announced that in the light of the improved protections to be offered by the new system of regulation under the 2005 Act, the Government felt able to propose certain additional commercial rights for existing casinos. The key points which are relevant here were:

- a doubling of the number of jackpot machines (Category B1) which casinos would be able to offer from 10 to 20;
- an increase in the stake and prize limits for these machines to £2 and £4,000 respectively;
- permitting casinos for the first time to offer within their gaming machine entitlement, machines with stake and prize limits of £100 and £500 respectively (equivalent to Category B2);
- an undertaking to introduce these changes as soon as practicable after Royal Assent.

7.14 These changes were introduced in October 2005 by the following Statutory Instruments:

- The Gambling Act 2005 (Commencement Order No.2 and Transitional Provisions) Order 2005 (SI 2005/2455) which commenced Paragraph 3(5)(a) of Schedule 16 to the Gambling Act 2005 from 1 October 2006;
- The Gaming Machines (Maximum Prizes) Regulations 2005 (SI 2005/2775);
- The Gaming Act 1968 (Variation of Monetary Limits) Order 2005 (SI 2005/2776).

7.15 Category B1 machines will be the equivalent of these jackpot machines under the new Act, and will only be permitted to be offered in casinos. The Government has proposed that these recently introduced stake and prize limits will continue to apply to Category B1 machines on implementation of the new Act on 1 September 2007. These Regulations deliver this.

Stake and prize limits for Category C and B3 machines

7.16 In October 2006, a number of industry trade bodies (Business in Sport and Leisure; British Amusement Catering Trade Association; British Beer and Pub Association; British Association of Leisure Parks, Piers and Attractions; Bingo Association; British Holiday and Home Parks Association) agreed to implement new codes of practice designed to help prevent gambling on machines by under 18s, and to ensure that information about where people could get help and advice relating to gambling problems was displayed on machines.

7.17 The Government announced on 5 October 2006 that, in the light of these new safeguards, it had decided to introduce early (under the Gaming Act 1968) the enhanced stake limits it had proposed for what would become Category C and B3 machines under the 2005 Act. It also announced that it had would increase the proposed prize for category C machines from £25 to £35 (again, under the 1968 Act). These changes were introduced from 27 October 2006 by The Gaming Act 1968 (Variation of Monetary Limits) Order 2006 (SI 2006/2663).

7.18 These Regulations continue this policy, and as such represent a change to the proposed prize limit for Category C machines announced when the Bill was in Parliament.

Introduction of Category B3A machine

7.19 In March 2007 the government published a consultation paper on proposals concerning the Gambling (Lottery Machine Interval Order) 2007 under section 235(2)(d) of the Act. Lottery ticket vending machines are exempted from the broad definition of "gaming machine" under section 235 (1) of the Act, provided that the results of the lottery are not determined by the machine and are not communicated by the machine without there being an interval of a duration specified by the Secretary of State. The length of this interval was the focus of the consultation and will be set by the above Order at one hour.

7.20 During the consultation it emerged that there were a number of non-commercial clubs that currently offer machines that would be caught by the proposals under section 235(2)(d). Such machines operate under section 4 of the Lotteries and Amusements Act 1976 and are offered as private lotteries for non-commercial gain, frequently with a "stake" of up to £2 and a prize of up to £2000. Responses to the consultation argued that such machines should be allowed to continue to function under the new Act as they do at present.

7.21 The government did not agree that it was appropriate to allow machines offering £2 stakes and £2000 prizes on non-commercial private club premises, to which children may have access. Such high prize high stake gaming is only available in casinos under the new Act, and it would therefore not be appropriate to allow such machines on premises where the entitlement under the Act would otherwise be to three category B4 machines, which have a maximum stake of £1 and maximum prize of £250.

7.22 However, the government has recognised that these machines are an important source of revenue for non-commercial clubs and has, therefore, decided to create an additional category of machine. It is also preferable from a regulatory aspect that such machines are brought within the definition of "gaming machine" under the new Act, rather than being operated in an otherwise non-regulated way. Category B3A machines will therefore have a maximum stake limit of £1 and a maximum prize limit of £500, which are levels set as a reflection of the type of premises on which these machines will be offered. However, this category is limited to machines that only enable participation in a lottery, and that are made available by a members' club or a miners welfare institute.

Consultation

7.23 The proposals contained in these Regulations have been the subject of considerable debate throughout the development of the Gambling Bill, and in the period since the Gambling Act 2005 received Royal Assent.

7.24 The Department published a formal consultation paper on the proposed regulations on 10 August 2006, and the closing date for responses was 27 October 2006. The Department received 18 responses to the consultation, the majority from various interested parties in the gambling industry. A full summary of the response to the consultation is included in the Regulatory Impact Assessment accompanying the draft regulations.

7.25 A number of respondents commented on the level of the stakes and prizes proposed in the consultation paper and, as noted above, following its publication the Government increased the maximum prize for Category C machines, and implemented this in October 2006 alongside the proposed new maximum stakes for Category C and B3 machines.

7.26 In the light of the responses it received to the formal consultation, the Government has also decided to amend its original proposals to allow Category D machines with a maximum stake of 10p to offer a non-money prize of up to £3 in addition to a money prize of £5 (which is a prize combination permitted under current law).

7.27 A number of the responses sought to re-open issues which had been debated in Parliament during the passage of the Gambling Bill, and which were not the subject of the consultation under the proposed regulations. These included suggestions that:

- existing casinos should be able to offer more than their current entitlement to 20 Category B1 gaming machines;
- bingo halls should be entitled to offer more than 4 category B3 gaming machines; and
- children should not be permitted to play Category D gaming machines.

7.28 It should be noted that a number of measures which the Department originally proposed to include in these Regulations under section 236 are now to be included in regulations made under section 240 of the Act. These relate to the circumstances in which gaming machines may be made available for use, and include proposals to prohibit stakes of less than 1p on gaming machines, and to prevent non-money prizes being delivered by machines unless the machine is Category D. Those section 240 regulations have yet to be laid before Parliament.

7.29 It should also be noted that the proposed Category B3A machine was not covered by the consultation under section 236, but was a response to issues that emerged as a result of the consultation on Lottery Ticket Vending machines, as referred to above.

Summary of Proposals

7.30 The following table summarises the proposals contained in these Regulations, which take account of the various changes outlined above:

Table 3 – Policy for Regulations

Category of machine	Maximum "Stake"	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	50p	£35
D	10p money prize	£5 money prize
	30p non-money prize	£8 non-money prize

7.31 While there is no formal mechanism requiring the review of the stake and prize limits contained in the Regulations, the Government has undertaken to look again at stake and prize levels in 2009.

7.32 A table summarising the number of gaming machines of each category which different categories of premises are permitted to offer under the 2005 Act and these Regulations is attached to at Annex 1.

Comparison with stake and prize limits under the Gaming Act 1968

7.33 The changes described in paragraphs 7.12-7.18 have already been implemented under the current law. This means that the stake and prize levels proposed in these Regulations almost completely replicate those that already apply to equivalent gaming machines under the existing legislation. The only changes proposed from the stake and prize limits currently in force is the introduction of a new Category B3A machine with a maximum stake of £1 and a maximum prize of £500, and the reduction from 30p to 10p in the maximum stake on Category D gaming machines.

Guidance

7.34 Guidance on the categorisation of gaming machines under the 2005 Act will be made available from the Gambling Commission, and on the DCMS website.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum. The regulations will have no cost implications for the public sector.

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.

ANNEX 1

Gambling Act 2005 - Number of gaming machines permitted by premises

	Machine category (x = category of machine not permitted on this type of premises)						
Premises	**A**	**B1**	**B2**	**B3**	**B4**	**C**	**D**
Regional Casino[1]	1,250 (subject to table ratio)	Any combination of other categories of machines, B1 to D, within the total limit of 1250 (subject to table ratio)					
Large Casino[2]	x	150	Any combination of other categories of machines, B2 to D, within the total limit of 150 (subject to table ratio)				
Small Casino[3]	x	80	Any combination of other categories of machines, B2 to D, within the total limit of 80 (subject to table ratio)				
Existing "1968" casinos[4]	x	20 in total, any combination of category B				Any number of C or D ***instead*** of 20 B	
Premises licensed for betting and licensed tracks occupied by pool betting operating licensee[5]	x	x	4 in total, any combination of B2 to D				
Licensed Bingo Premises[6]	x	x	x	4 in total, any combination of B3 and B4		Any number of C and D	
Licensed Adult Gaming Centres[6]	x	x	x	4 in total, any combination of B3 and B4		Any number of C and D	
Clubs or Miners' welfare institutes with permits[7]	x	x	x	x	3 in total, any combination of B3A, B4, C or D		
Premises with bar licensed for alcohol consumption[8]	x	x	x	x	x	C or D - 2 automatically, with notification. In addition, as many as allowed by permit.	

	Machine category (x = category of machine not permitted on this type of premises)						
Premises	**A**	**B1**	**B2**	**B3**	**B4**	**C**	**D**
Licensed Family Entertainment Centre (FEC)[9]	x	x	x	x	x	Any number of C and D	
Unlicensed FEC[10]	x	x	x	x	x	x	D only Any number
Travelling Fair[10]	x	x	x	x	x	x	D only Any number

Notes

[1.] Regional casino: the regional casino must have a minimum of 40 gaming tables and will be permitted 25 machines for each gaming table available for play, i.e. a machine/table ratio of 25:1. The regional casino will need 50 tables to qualify for 1250 machines. See Section 172(3) of the Gambling Act ("Gaming Machines").

[2.] Large casinos: must have at least 1 gaming table. Large casinos will be permitted 5 machines for each gaming table available for play, i.e. a machine/table ratio of 5:1. A large casino will need 30 tables to qualify for the maximum 150 machines. Section 172(4).

[3.] Small casinos: must have at least 1 gaming table. Small casinos will be permitted 2 machines per gaming table available for play, i.e. a machine/table ratio of 2:1. A small casino needs 40 tables to qualify for maximum 80 machines. Section 172(5).

[4.] Existing "1968" casinos: not more than 20 category B machines (from 1st October 2005, SI 2005/2455). No machine/table ratio applies. Existing casinos will be able to opt to have no category B machines but unlimited category C and D machines (as is currently the case under section 32 of the 1968 Gaming Act).

[5.] Premises licensed for betting may have up to 4 machines in total, within categories B2 to D. Tracks which are licensed for betting only receive this entitlement if the holder of the track premises licence also holds a pool betting operating licence. Section 172(8) and (9).

[6.] Up to 4 category B3 or B4, or any combination of B3 and B4 machines (e.g. two of each) within the limit of four, plus any number of category C and D machines. Section 172 (1) or (7).

[7.] A total of 3 machines, which can be any combination of category B3A, B4, C or D. The number and type of machines is reliant upon the club obtaining a club gaming permit or a club machine permit. Sections 271 and 273 and Schedule 12.

[8.] Up to 2 category C or D. Section 282(1) gives automatic entitlement to 2 machines, if the holder of the relevant alcohol licence has notified the licensing authority of their intention to make gaming machines available, and has paid the required notification fee. More than 2

machines can be applied for under a permit from the licensing authority, which will determine the number which can be made available. Section 283 and Schedule 13 refer.

9. Any number of category C and D machines. Section 172(2). The Licensing Authority has no power to limit numbers.

10. Any number of category D machines in an unlicensed FEC. Section 247 and Schedule 10 refer. Any number of category D gaming machines at a travelling fair, section 287 refers - but, "facilities for gambling (whether by way of gaming machine or otherwise)" must be "no more than an ancillary amusement at the fair".

Regulatory Impact Assessment

1. Title

The Categories of Gaming Machines Regulations 2007

2. Purpose and intended effect

Objectives

2.1 The Secretary of State is required to make regulations under section 236 of the Gambling Act 2005 (the 2005 Act) defining categories of gaming machine. In defining these categories the Government's objectives are:

- to review the stake and prize limits contained in existing legislation and determine appropriate limits from 1 September 2007;
- to simplify the existing categorisation of gaming machines under the Gaming Act 1968 in order to provide greater clarity to both user and operator alike;
- to provide a means of categorisation that is "future-proof"; and
- to apply the new categorisation to all gaming machines, as defined under section 235 of the 2005 Act.

Background to gaming machines under the 2005 Act

2.2 The Gambling Act 2005 introduces a new system of regulation for gambling, which will replace the current rules set out in the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

2.3 Part 10 of the 2005 Act concerns gaming machines, and replaces and updates the current gaming machine regime under Part III of the Gaming Act 1968. From 1 September 2007, a "gaming machine" will be defined under section 235 of the 2005 Act as "a machine which is designed or adapted for use by individuals to gamble", with a series of specific exceptions to this broad definition set out in subsection (2). These machines are commonly known as "slot" or "fruit" machines and are typically found in casinos, arcades, betting shops and pubs. Other types of gaming machine include crane grabs and penny falls, which are often found at seaside amusement arcades.

2.4 Section 236 of the 2005 Act requires the Secretary of State to make regulations defining four categories of gaming machine A, B, C and D. The regulations must also achieve the following:

- divide Category B machines into sub-categories; and
- wherever there is a reference to a Category B machine in the 2005 Act, make it clear to which sub-category of Category B this machine belongs.

2.5 By virtue of section 236(3) and (4) the definitions must operate by reference to the nature of the gambling facilities provided by the machine, and may, in particular, refer to the following matters:

- amounts paid in respect of the use of a machine (commonly known as "stakes");
- the value of prizes;
- the nature of prizes;
- the nature of the gambling for which the machine can be used; and
- the premises where a machine is used.

2.6 The regulations under Section 236 are subject to the affirmative resolution procedure, requiring a debate in both Houses of Parliament.

2.7 The existing rules relating to the operation of gaming machines under Part III of the Gaming Act 1968 will not lapse until the 2005 Act is brought fully into effect. The Government has announced previously that the formal implementation date for the Gambling Act 2005 will be 1 September 2007 and all gaming machines will be expected to comply with these regulations from that date.

Overview of Gaming Machine Industry

2.8 Under the current law gaming machines (as defined by section 26 of the Gaming Act 1968 ("the 1968 Act")) fall into one of the following categories:

- casino jackpot machine (s.31);
- jackpot (or club) machines (s.31),
- all cash Amusement With Prizes (AWP) machines (s.34(5E));
- cash or token Amusement With Prizes (AWP) machines (s.34).

2.9 Figures published by the Gambling Commission[2] indicate that there are some 235,000 gaming machines sited in Great Britain. Of these, there are approximately: 192,000 Amusement With Prize machines (equivalent to the new Category C and D); 25,000 casino jackpot and jackpot machines (equivalent to the new Category B1, B3 & B4); and 17,000 low stake/low prize machines such as pinball, penny falls and crane grabs (equivalent to the new Category D).

2.10 In addition to machines offered under section 26 of the 1968 Act, some sections of the gambling industry are also operating equipment which will become fully regulated as "gaming machines" for the first time under the 2005 Act. This equipment consists primarily of:

- fixed odds betting terminals (FOBTs), operated in betting shops;
- section 21 machines operated in some casinos and bingo halls, and section 16 machines operated in some amusement arcades;
- lottery-based gaming machines operating under section 4 of the Lotteries and Amusements Act 1976.

2.11 Data on this equipment is less robust than for 1968 Act gaming machines. However, it is estimated that there are approximately 25,000 FOBTs, 3,500 section 21 machines, 12-14,000 section 16 machines and 3000 lottery-based gaming machines currently in operation.

2.12 The industry has been on notice for some time that this equipment will fall within the new broad definition of "gaming machine" under the 2005 Act, and that as a result this

[2] Gambling Commission Annual Report 2005/06

equipment will have to comply with the limits on stakes and prizes laid down by these Regulations, as well as the limits on numbers of machines contained in the Act.

Rationale for government intervention

2.13 The Secretary of State is obliged by the 2005 Act to make regulations under section 236. While the 2005 Act itself sets out the entitlements to use different categories of gaming machine (see sections 172, 247, 271, 273, 282, 283 and 287 of the 2005 Act), it does not define each category. Instead regulations are required, which are subject to the affirmative resolution procedure. This approach was adopted in order to give greater flexibility for the future about how machines are categorised, which will be of benefit to the industry and consumers.

2.14 In regulating gaming machines under the 2005 Act, the Government and Parliament decided it was paramount that the licensing objectives of the 2005 Act were delivered in relation to machine use, and machine manufacture and supply. The licensing objectives are summarised as:

- ensuring gambling remains crime free;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable people from harm.

2.15 These licensing objectives have informed how the Government has approached the development of these regulations. Machine gambling requires careful, balanced and proportionate regulation if customers are to enjoy informed choice and an effective level of protection within an environment that allows this section of the industry to remain profitable.

2.16 While gambling can be a normal leisure activity that many people enjoy, it also brings with it risks of personal and social harm. The rules on gaming machine use set out in the 2005 Act will give children access to certain limited types of gaming machine, as well as the wider availability afforded to adults. The 2005 Act also determines which types of premises may offer which categories of machine, depending on:

- the nature and degree of regulation of the premises,
- the purpose and proposed use of the premises e.g. gambling or non-gambling; and
- the age of potential visitors to the premises.

2.17 In effect, the Act establishes a hierarchy in relation to the premises on which categories of gaming machine may be used:

- Category A and B1 machines will only be permitted in the highly-regulated environment of casinos;
- Category B2 machines will be permitted in licensed betting premises;
- Category B3 machines will be permitted in licensed bingo halls and adult gaming centres;
- Category B3A machines will be permitted in members' clubs and miners' welfare institutes;
- Category B4 machines will be permitted in members' clubs, commercial clubs and miners' welfare institutes;
- Category C machines will be permitted in pubs and the adult-only areas of family entertainment centres (arcades); and

- Category D machines, which will be the only class of gaming machine that can be used by children and young people, will be permitted in family entertainment centres (arcades).

2.18 The nature of the regulations proposed here is to a large extent dictated by this hierarchy as established by the 2005 Act (see Annex C for a description of the numbers permitted on each type of premises)

2.19 Under the Gaming Act 1968, stakes and prizes were the defining elements used to distinguish between different categories of gaming machine. Stake and prize levels are fundamental to the nature of gambling offered by the machine, and whether this can be considered a relatively safe amusement (like a crane grab or penny pusher in a seaside arcade), or a harder and potentially more addictive form of gambling (like a high stake/high prize gaming machine in an adult only setting). The Government has, therefore, decided to retain stake and prize levels as the primary means of defining gaming machines under the new Act.

2.20 Section 236 also includes powers for the Secretary of State to define the categories of gaming machine by reference to other matters including the nature of the prize, the nature of the gambling for which the machine can be used and the premises where a machine is used.. The breadth of these powers has enabled the Secretary of State to specify certain matters, in addition to stake and prize levels, with which certain categories of machine must comply. This would, for example, enable the Secretary of State to set different stake and prize limits for gaming machines of the same category in different locations. This approach uses a system based primarily on stake and prize limits, which the Government concluded would be more straightforward and less burdensome for the industry, and it would prefer for the time being to monitor the effectiveness of a categorisation based primarily on stake and prize limits.

2.21 It should be noted, however, that the Government is consulting separately on proposals for regulations under Section 240 of the Act which would prohibit any gaming machine other than a Category D machine from offering non-money prizes. As a result of this, the Category D stake and prize limits in these regulations vary depending on the nature of the prize delivered (i.e. money or non-money)

2.22 In summary, the approach that the Government has taken towards these regulations has been to seek to:

- take account of the premises allocations made by the 2005 Act;
- address the potential risks posed to different age groups of users;
- take account of the current rules distinguishing different types of gaming machine under the Gaming Act 1968, on the basis of stake and prize limits; and
- simplify the current categorisation of gaming machines and provide greater transparency to both user and operator alike.

Summary of Proposals

2.23 The 2005 Act establishes four new categories of gaming machine, to be known as Categories A, B, C and D. As required by Act, the regulations subdivide Category B machines into sub-categories.

2.24 The regulations define these categories by reference to:

- maximum charges for use ("stakes"); and
- maximum prizes

It should be noted that the Category B3A machine is also defined by reference to the nature of gambling offered and the premises where the machine may be used.

2.25 The maximum stake and prize levels are set out below:

Table 1 – Summary of Categories under proposed Regulations

Category of machine	Maximum "Stake"	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	50p	£35
D	10p	£5 money or £5 money & £3 non-money
3.1	30p	£8 non-money

2.26 Annex C to this RIA describes in more detail the rules on location and maximum numbers of the different categories of gaming machine, as set down in the Act, and (in relation to sub-category B machines) in these regulations.

Background to the development of these Regulations

2.27 The full background to the regulation of gaming machines under the 2005 Act was set out in the Regulatory Impact Assessment that was published to accompany the 2005 Act in April 2005.

2.28 Following the publication of the Gambling Review Body's report in July 2001[3], detailed policy in relation to the categorisation of gaming machines has evolved during the various stages of development of the Gambling Bill, in the light of the responses the Government received to successive consultation documents. Detailed proposals for stake and prize limits for the new categories of machine were published in the draft regulatory impact assessment which accompanied the introduction of the draft Gambling Bill to Parliament in October 2004. The relevant extract from the Delegated Powers Memorandum is included at Annex A. It includes a table summarising the Government's proposals at the time:

Table 2 – Summary of proposals in the Delegated Powers Memorandum

[3] The Budd Report CM 5206

Category	Maximum stake	Maximum prize	Location(s)	Maximum number Per premises
A	Unlimited	Unlimited	Regional casinos	1250
B1	£1	£2,000	All casinos	80 in small casinos; 150 in large casinos
B2	£100 per game	£500	As above plus premises licensed for betting	4
B3	£1	£500	As above plus Bingo clubs and adult gaming centres	4
B4	£1	£250	As above plus clubs and miners' welfare institutes	3
C	50p	£25	As above plus premises licensed for alcohol	2, but may apply for more to local authority
D	10p (30p when non-exchangeable prizes)	£5 (cash or non cash)	As above plus family entertainment centres and travelling fairs.	

2.29 During the passage of the Gambling Bill through Parliament, and after the Gambling Act 2005 received Royal Assent, the industry has lobbied for an increase in the levels of the stakes and prizes which would apply to gaming machines on implementation (from those set out in table 2). Throughout this period, the Department and the industry maintained a constant dialogue over these issues, and a number of modifications were made to the Department's original proposals for these regulations as a result. The key changes are explained below.

Non-money prize level for Category D machines

2.30 The proposed £5 limit on prize levels for Category D machines was a reduction from the £8 prize currently permitted in equivalent machines under the Gaming Act 1968. The Government had proposed this reduction because Category D machines would be the only class of gaming machine which children would be permitted to use under the 2005 Act. At Lords

Second Reading (22 February 2005 HL Col 1140), Lord McIntosh announced a change of policy, indicating that the Government had accepted that £8 non-money prizes like teddy bears in crane grabs and similar machines had not caused significant problems. Therefore, in the light of the new controls over gaming machines to be delivered by the Bill, the Government proposed to retain an £8 prize limit for non-money prizes in Category D machines. These regulations deliver this.

Increase in stake and prize limits for Category B1 machines in existing casinos

2.31 In its national policy statement on casinos of 16 December 2004, the Government announced its intention to place strict limits on the number of new casinos which would be permitted to be licensed under the 2005 Act, while an assessment was undertaken of the impact of this new style of casino on problem gambling. In that policy statement, the Government also announced that existing casinos which did not apply successfully for one of the limited number of new licences available would retain their existing gaming and gaming machine entitlements under the 1968 Act.

2.32 During Committee in the House of Lords (6 April 2005 HL 836-7), Lord McIntosh explained why the Government did not consider it prudent to allow all existing casinos to convert into new-style casinos immediately. However, he also announced that in the light of the improved protections to be offered by the new system of regulation under the 2005 Act (by the Gambling Commission), the Government felt able to propose certain additional commercial rights for existing casinos. The key points which are relevant here were:

- a doubling of the number of jackpot machines (Category B1) which casinos would be able to offer from 10 to 20;
- an increase in the stake and prize limits for these machines to £2 and £4,000 respectively;
- permitting casinos for the first time to offer within their gaming machine entitlement, machines with stake and prize limits of £100 and £500 respectively (equivalent to Category B2);
- an undertaking to introduce these changes as soon as practicable after Royal Assent.

2.33 These changes were introduced in October 2005 by the following Statutory Instruments:

- The Gambling Act 2005 (Commencement Order No.2 and Transitional Provisions) Order 2005 (SI 2005/2455) which commenced Paragraph 3(5)(a) of Schedule 16 to the Gambling Act 2005 from 1 October 2006;
- The Gaming Machines (Maximum Prizes) Regulations 2005 (SI 2005/2775);
- The Gaming Act 1968 (Variation of Monetary Limits) Order 2005 (SI 2005/2776).

2.34 Category B1 machines will be the equivalent of these jackpot machines under the new Act, and will only be permitted to be offered in casinos. The Government has proposed that these recently introduced stake and prize limits will continue to apply to Category B1 machines on implementation of the new Act on 1 September 2007. These regulations achieve this.

Stake and prize limits for Category C and B3 machines

2.35 In October 2006, a number of industry trade bodies (Business in Sport and Leisure; British Amusement Catering Trade Association; British Beer and Pub Association; British

Association of Leisure Parks, Piers and Attractions; Bingo Association; British Holiday and Home Parks Association) agreed to implement new codes of practice designed to help prevent gambling on machines by under 18s, and to ensure that information about where people could get help and advice relating to gambling problems was displayed on machines.

2.36 The Government announced on 5 October 2006 that, in the light of these new safeguards, it had decided to introduce early the enhanced stake limits it had proposed for what would become Category C, B3 and B4 machines under the 2005 Act, and had also decided to increase the proposed prize for Category C machines from £25 to £35. These changes were introduced from 27 October 2006 by The Gaming Act 1968 (Variation of Monetary Limits) Order 2006 (SI 2006/2663). These increases are continued under these Regulations for Category C, B3 and B4 machines after 1 September 2007.

Introduction of Category B3A machine

2.37 In March 2007 the government published a consultation paper on proposals concerning Lottery Machine Vending machines under section 235(2)(d) of the Act. Such machines are exempted from the broad definition of "gaming machine" under section 235 (1) of the Act, provided that the results of the lottery are not determined by the machine and are not communicated by the machine without there being an interval of a duration specified by the Secretary of State. The length of this interval was the focus of the consultation and will be set by the above Order at one hour.

2.38 During the consultation it emerged that there were a number of non-commercial clubs that currently offer machines that would be caught by the proposals under section 235(2)(d). Such machines operate under section 4 of the Lotteries and Amusements Act 1976 and are offered as private lotteries for non-commercial gain, frequently with a "stake" up to £2 and a prize of up to £2000. Responses to the consultation argued that such machines should be allowed to continue to function under the new Act as they do at present.

2.39 The government did not agree that it was appropriate to allow machines offering £2 stakes and £2000 prizes on non-commercial private club premises, to which children may have access. Such high prize high stake gaming is only available in casinos under the new Act, and it would therefore not be appropriate to allow such machines on premises where the entitlement under the Act would otherwise be to three category B4 machines, which have a maximum stake of £1 and maximum prize of £250.

2.40 However, the government has recognised that these machines are an important source of revenue for non-commercial clubs and has, therefore, decided to create an additional category of machine. It is also preferable from a regulatory aspect that such machines are brought within the definition of "gaming machine" under the new Act, rather than being operated in an otherwise non-regulated way. Category B3A machines will therefore have a maximum stake limit of £1 and a maximum prize limit of £500, which are levels set as a reflection of the type of premises on which these machines will be offered. However, this category is limited to machines that only allow participation in a lottery, and that are made available by a members' club or a miners' welfare institute.

3. Consultation

Within government

3.1 The Government has consulted the Gambling Commission extensively in developing the proposals for the new categories of gaming machines. The Gambling Commission supports the Government's approach.

Public consultation

3.2 As noted above, the proposals contained in the draft regulations have been the subject of considerable debate throughout the development of the Gambling Bill, and in the period since the Gambling Act 2005 received Royal Assent.

3.3 In addition to the extensive dialogue and consultation with the industry which led to the changes outlined above, the Department has also undertaken a two stage consultation on the draft regulations themselves.

3.4 On 29 March 2006, the Department wrote informally to a number of key stakeholders to outline the Government's thinking on the regulations under Section 236, and inviting them to comment. These stakeholders included trade bodies from across the gambling industry, groups with a particular interest in the new categories of gaming machines and representatives of faith and other groups concerned about problem gambling.

3.5 The informal consultation broadly reiterated the Department's original proposals announced during the passage of the Bill, incorporating the changes described in Paragraphs 2.29-2.33 above. The informal consultation also outlined other proposals under section 236(4) of the 2005 Act, which are now to be addressed in regulations under section 240. These relate to the circumstances in which gaming machines may be made available for use, and include proposals to prohibit stakes of less than 1p on gaming machines, and prevent non-money prizes being delivered by machines unless the machine is Category D.

3.6 The Department received 11 responses to its informal consultation paper. The principal concern relevant to these regulations concerned the proposal that Category D machines should offer either a maximum £5 money prize or a maximum £8 non-money prize, and the Department's proposal that if they offered a combined money and non-money prize, the maximum value would be £5 (as opposed to £5 money and £3 non-money as permitted by current law). Respondents to the informal consultation also raised a number of points in relation to proposals which are now being taken forward in regulations to be made under section 240.

3.7 On 10 August 2006, the Department published a formal consultation paper which built upon the proposals set out at the informal consultation stage (in particular by allocating some proposals to regulations under section 240 instead), and maintained its position on Category D prizes. The table below summarises the Department's proposals during the formal consultation stage.

Table 3 – Formal Consultation Proposals

Category of machine	Maximum "Stake"	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000

B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p	£5 money prize
	30p	£8 non-money prize

3.8 It should be noted that during the course of the formal consultation exercise, the Government made the changes to current stake and prize limits for gaming machines described in paragraphs 2.34-2.35 above. As a result of these changes, the proposed maximum prize for Category C machines rose from £25 to £35.

3.9 The consultation lasted 12 weeks and the Department received 18 responses.

3.10 A number of the responses sought to re-open issues which had been debated in Parliament during the passage of the Gambling Bill, and which were not the subject of the consultation under the proposed regulations. These included suggestions that:

- existing casinos should be able to offer more than their current entitlement to 20 Category B1 gaming machines;
- bingo halls should be entitled to offer more than 4 category B3 gaming machines; and
- children should not be permitted to play Category D gaming machines.

3.11 Two key issues emerged in relation to the current regulations, as explained below.

<u>£8 maximum combined money/non-money prize on Category D machines</u>

3.12 The industry continued to press for an £8 maximum combined money/non-money prize on Category D machines. In light of the responses to the formal consultation, the Government accepted the evidence provided by BACTA, BALPPA and others that not preserving the status quo would have a disproportionate effect on small, seaside operators where this type of machine is most common. The Government also recognised that a current practice in many arcades was to include small, non cash prizes along with coins in penny falls (or pushers) and that there was no evidence that such a practice was in any way harmful.

3.13 The Government's decision on prizes in effect preserves the position under the current law, and means that a Category D machine can offer a maximum £5 money prize together with a maximum £3 non-money prize. The maximum stake on machines offering a combined prize will, like other money Category D machines be 10p.

<u>Replayable tokens should be allowed up to an £8 maximum prize limit</u>

3.14 The industry argued that what are often termed replayable tokens – in effect, tokens which can be reinserted into a machine to pay for more gambling – should be treated as non-money rather than money prizes.

3.15 The Government had already accepted that redeemable tokens – often in the form of tickets which customers can collect and then exchange for a range of non-cash prizes on the premises should be subject to the £8 prize limit. However, the Government concluded that there

was no valid justification for treating replayable tokens, which can be used in place of money to gamble or to purchase goods on the gambling premises, any differently to money. No evidence relating to any compliance costs associated with this approach emerged from the consultation process, and based on what evidence is available the Government does not believe that a significant number of gaming machines in operation will need adjustment as a result of this approach.

Category B3A machines

3.16 It should also be noted that the proposed Category B3A machine was not covered by the consultation under section 236, but was a response to issues that emerged as a result of the consultation on Lottery Ticket Vending machines, as referred to above.

4. Options

4.1 Three options have been considered:

Option 1 - not to set regulations under s. 236

4.2 The Secretary of State is required to set regulations by the Gambling Act 2005. Until the Secretary of State sets such regulations, the new categories of gaming machine required by the 2005 Act could not be established and Part 10 of the Gambling Act could not be commenced. This would compromise the Government's policy of providing greater transparency to users and industry operators, and of modernising the regulation of gaming machine use in Great Britain.

Option 2 - Implement the policy as proposed in the delegated powers memorandum

4.3 This option would ensure consistency with previously published policy. However, it does not deliver on the commitments made by Government in the latter stages of the passage of the Bill, and during public consultation concerning the limits on the stakes and prizes of Category B1, B3, B4 and C machines and the limits on combination non-money prizes in Category D machines.

Option 3 - Implement the policy as proposed following the public consultation stage

4.4 This option reflects changes to Government policy that have occurred since the Delegated Powers Memorandum, in particular changes to maximum stake and prize limits for existing gaming machines (equivalent to Categories B1, B3, B4 and C). This option also takes account of the representations made by stakeholders at the consultation stage, particularly in relation to policy on Category D gaming machines.

4.5 This is the Government's preferred option.

5. Costs and benefits

Sectors and groups affected

5.1 These regulations almost completely replicate the stake and prize limits for gaming machines already in force under the Gaming Act 1968, and consolidate the increases for various

sections of the industry over the last two years (described in Paragraphs 2.30-2.35 above). This means that the overwhelming majority of the 235,000 existing gaming machines currently operating in accordance with the requirements of Part III of the Gaming Act 1968 will require little or no adjustment to be able to comply with these Regulations from 1 September.

5.2 The only change to the stake and prize limits currently in force will be a reduction from 30p to 10p for the maximum stake for all money-prize category D machines. This measure was announced in 2004 alongside the draft Bill and was broadly welcomed in Parliament, as this is the only form of all money gaming machine which children will be able to play.

5.3 Any operator converting equipment not currently covered by Part III of the Gaming Act 1968 to the new categories outlined above will also be affected by these regulations. Such machines will need to comply with the relevant category limits for their particular premises from 1st September 2007.

5.4 Exact figures relating to the costs and benefits of the Department's proposals are hard to calculate because it has proved difficult to gather reliable evidence in relation to the number of gaming machines likely to be affected, particularly where these are currently being operated outside of the system of regulation established by Part III of the 1968 Act. Our best estimate of the number of gaming machines currently in operation is included in the table below:

Table 4 - Current machine numbers subject to these regulations

Type of machine	**Total estimated number of machines in Great Britain**
Category A (no current equivalent)	0
Jackpot (Category B1, B3, B4)	25,000
FOBT (Category B2)	25,000
AWP (Category C or D)	192,000
Pushers, crane grabs etc (Category D)	17,000
Section 16 and 21 machines (likely to be converted to Category B1, B3 or C)	16,500
Lottery-based gaming machines	3,000
GB machine estate	**278,500**

Benefits

5.5 The regulations will provide a simplified and coherent system of categorisation of gaming machines, which reflect the licensing objectives of the 2005 Act, and the hierarchy established by the Act in relation to the premises on which categories of gaming machine may be used. For Category A-C machines, this means that stake and prize levels have been set at levels appropriate to the premises on which these machines can be offered. For Category D machines, this means imposing low limits on the amount of money a player may stake or win, because this is the only category of machine children may play.

5.6 The regulations consolidate the various increases in stakes and prizes which have already been introduced in the sector over the past two years. In the case of Category B3, B4 and C machines, welcome as the changes have been in the industry it is still too early to assess the extent of this impact. The increase in stake and prize levels in the casino industry have been in

place longer, and the evidence from recent gambling industry company reports suggests this may be having a beneficial impact. For example:

- in the 2005 Annual Report and accounts of the Rank Group plc, Chief Executive Mike Smith noted that: "During the final quarter of 2005, Grosvenor Casinos experienced 13.2% growth in admissions and significant uplift in gaming machine revenues";
- in Stanley Leisure plc's 2006 annual report, Chairman Lord Steinberg reported a similar story: "The so called "early freedoms", including the removal of the 24 hour membership rule and increased machine numbers…have already had a positive effect on our business." The report noted an increase in slot machine income from £7.4m in 2005 to £13.1m in 2006;
- London Clubs International's 2006 Annual Report noted that: "From a regulatory perspective, we have also seen significant progress, with casinos permitted to offer 20 slot machines from October 2005, and increased stakes and prizes from November 2005. The results from the Group's electronic operations have increased significantly year on year and are expected to be an increasingly important source of revenue for the Group".

5.7 These Regulations introduce new opportunities for manufacturers and operators, by allowing an unlimited stake and prize category A machine in this country for the first time albeit only in the one regional casino permitted by the Act. The regulations are also flexible and create the potential for adjustment in the future. The Government has undertaken to look again at stake and prize limits in 2009.

5.8 These Regulations also bring certain equipment which has previously been offered outside the system of regulation for gaming machines (established by Part III of the Gaming Act 1968) into line with all gaming machines. This should end the uncertainty over the status of such products for the industry, and provide assurance to customers that this equipment will be subject to the same safeguards, backed up by the force of law, as other gaming machines.

5.9 The table below summarises the estimates of the benefits conferred by the new regulations:

Table 5 – Estimate of Benefits

Category of machine	**Number of machines affected by proposal**	**Benefits conferred (from 1968 Act position)**
A	No current equivalent	Unlimited stake and prize machine allowed for the first time in Great Britain
B1, B2, B3, B3A, B4	Up to 50,000	FOBTs & lottery-based gaming machines brought within gaming machine definitions. Consolidates increase in stake limit on B3 & B4 machines from 50p to £1, and increases in stake and prize limits for B1 machines in casinos to £2 and £4,000.
C	Approx 112,000	Consolidates increase in stake and

		prize limits from 30p/£25 to 50p/£35
D	Approx 97,000 (17,000 of which are pushers or crane grabs)	Maintenance of the current position for the majority of machines

Costs

5.10 For the vast majority of existing machines currently operating under Part III of the Gaming Act 1968, the division of gaming machines into four categories of A to D will not, of itself, present any re-branding, hardware or software costs to operators.

5.11 The new stake and prize limits for Category D machines are the only possible exception to this. However, following consultation with the Gambling Commission and the industry, the Department believes that the overwhelming majority of low stake/low prize AWP machines currently operating under section 34 of the Gaming Act 1968 operate on a stake of 10p or less. Even though the current law allows a maximum stake of 30p, the majority of operators chose to configure their machines at a stake of 10p or less, and with a monetary prize of £5 or less for commercial reasons.

5.12 The Department understands that only a small proportion of these machines are configured at the 30p stake and £8 non-money prize permitted maximum limits, and these will largely be "crane grab", and in a few cases "penny fall" machines. It is these machines that will have to be reconfigured to comply with these regulations, and only then if they offer a money prize or a combination of a money and non-money prize. No changes will be necessary if only non-money prizes are offered.

5.13 The number of these machines that will therefore incur a compliance cost as a result of these regulations will be very small, although an exact figure has proved difficult to establish, even following invitations to the industry to present evidence on such costs. The Department has concluded that any costs associated with this change are likely to be negligible and outweighed by the importance of ensuring that children are properly protected.

5.14 Machines not currently operating under Part III of the Gaming Act 1968 may have to be modified to comply with the new rules, which will include FOBTs and section 16 and section 21 machines. The operators most likely to be affected are:

- casinos – which may have been offering Section 21 machines in addition to their entitlement under the 1968 Act to 20 Category B1 equivalent gaming machines;
- bingo halls – which may have been offering Section 21 machines in addition to their entitlement under the 1968 Act to 4 Category B3 equivalent gaming machines (plus an unlimited number of Category C and D equivalent machines);
- betting shops – which may have been offering up to four FOBTs;
- adult only arcades (Adult Gaming Centres) – which for the first time under the 2005 Act will have an entitlement in law to up to four Category B3 machines, but which may have been operating Section 16 machines in addition to their existing entitlement to an unlimited number of Category C or D equivalent machines;

- non-commercial private members' clubs – which may have to convert lottery-based machines operating under section 4 of the 1976 Lotteries Act to Category B3A machines;
- arcades which permit children to enter all or part of the premises (Family Entertainment Centres) – which may have been offering Section 16 machines in addition to their existing entitlement to an unlimited number of Category C or D equivalent machines.

5.15 To a large extent, any compliance costs associated with these machines stem from the Act itself, and not from these regulations. It is the Act that establishes the definition of gaming machines, and the limits on the number of gaming machines of different categories that each premises may offer. The Government's intentions with regard to the proposed stake and prize levels which have formed the basis of these regulations has been clear since 2004, and in a number of areas stake and prize levels have increased since that date.

5.16 The Department has made it clear throughout the process of developing the definitions for the new categories of gaming machine that such machines will have to comply with the new rules. As the Gaming Board reported in its 2004-5 annual report (published in June 2005) at page 49:

> *5.5 As reported last year, there has been extensive development by the industry of types of machines for operation under…section 21 of the Gaming Act 1968 in bingo clubs and casinos. These sections were included in the Acts in order to allow small scale gaming or amusements with prizes in the premises concerned. It was not originally envisaged that such gaming would be conducted by means of machines. But these machines have been designed to exploit a perceived loophole in the definition of a gaming machine in Part III of the 1968 Gaming Act ("Gaming by means of machine").*
>
> *5.6 The development and proliferation of these machines has raised concerns, not least because there is nothing in law to prevent children from playing them. Guidelines have been agreed between the Board and BACTA, which are designed to achieve some control over the way these machines operate. ..The Board and DCMS are closely monitoring the use of these machines.*
>
> *5.7 It is important to note that DCMS has made it clear that it does not accept that section 16 of the 1976 Act or section 21 of the 1968 Act were intended to offer commercial rights to make available gaming by machines. That is the purpose of Part III of the Gaming Act 1968. Under the Gambling Act 2005 these machines will be classified as gaming machines, they will be regulated by Part 10 of the new Act, and will be subject to the same limits on stakes and prizes and numbers and locations as other gaming machines. DCMS has made it clear that these machines will not attract "grandfather rights"."*

5.17 Any operator who has nonetheless decided to offer these machines will have done so in the knowledge that compliance costs may be incurred when converting these machines to comply with the requirements of these regulations.

5.18 There will be no increased administrative costs falling to the public purse as a result of these regulations. The regulation of gaming machines will be undertaken by the Gambling

Commission and licensing authorities and this will be funded through fees paid by the industry on a cost recovery basis.

6. Small firms impact test

6.1 The Department estimates that many of the approximately 2,000 seaside and other arcade operators (Family Entertainment Centres and Adult Gaming Centres) and approximately 650 gaming machine suppliers would be classed as small operators.

6.2 The division of gaming machines into four categories of A to D will not, of itself, have a greater impact on smaller firms than on any other size of firm. They are unlikely to suffer any adverse consequences from the regulations proposed here, which almost entirely replicates the position under the current law.

7. Competition assessment

7.1 A simple competition assessment has been undertaken in line with guidance issued by the Better Regulation Executive and the Office of Fair Trading. The regulations will have no impact on competition as they will apply equally to all gaming machine operators, manufacturers and repairers as a common set of universally applicable requirements.

7.2 Whilst this is a sector characterised by rapid technological change these regulations will apply equally to all categories gaming machine and should not therefore affect competition. The increases in stake and prize levels consolidated in the current regulations, and the potential for the introduction of Category A machines into the British market – albeit confined to the one regional casino permitted by the Act – create new opportunities and flexibilities for manufacturers to develop new products.

8. Enforcement, sanctions and monitoring

8.1 The operators of the new categories of gaming machine will require various types of permission to offer gaming machines for use, depending on the nature of their premises. Many will require operating licences (and the appropriate personal licences) from the Gambling Commission, along with a premises licence from their licensing authority. Some will instead require permits from their licensing authority. In one case (travelling fairs) permission to use gaming machines is provided by the 2005 Act itself. The 2005 Act, together with these regulations, determine which categories of machine are allowed, and Annex C contains full details of this.

8.2 The manufacturers and suppliers of gaming machines will require operating and appropriate personal licences from the Gambling Commission.

8.3 The Commission and licensing authorities will both have a role to play in ensuring that gaming machines are appropriately used within the legal entitlements provided by the 2005 Act and the rules laid down by these regulations. The Commission is also responsible for ensuring that machine manufacturers and suppliers manufacture and supply machines which comply with the limits in these regulations.

9. Implementation and delivery plan

9.1 These regulations will be delivered by the laying of a statutory instrument before Parliament in June 2007. The regulations will come into force on 1 September 2007 and all gaming machines will be expected to comply with the regulations from this date. There will be no phased implementation of the regulations either before or after 1 September 2007.

10. Post implementation review

10.1 The Gambling Commission will monitor any impact of these regulations on problem gambling as part of its wider work in this area. While there is no formal mechanism requiring the review of the stake and prize limits contained in the regulations, the Government has undertaken to look again at stake and prize levels in 2009.

11. Summary and recommendation

11.1 The recommended definition for the categories of gaming machine, as defined by the maximum stake and prize limits, is summarised in the table below:

Table 6 – summary proposals

Category of machine	Maximum "Stake"	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	50p	£35
D	10p	£5 money or £5 money and £3 non-money prize
	30p	£8 non-money prize

12. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed …….

Date …….....

Rt Hon Richard Caborn, Minister for Sport, Department for Culture, Media and Sport

Contact point:

Ben Melton,
Gaming and Lotteries Team
Department for Culture Media and Sport
2-4 Cockspur Street,
London
SW1Y 5DH
Tel: 020 7211 6495
Email: Ben.Melton@culture.gsi.gov.uk

Annex A

Extract from the Delegated Powers Memorandum (January 2005)

Clause 230: Gaming Machines: Categories A to D

198. The regulation of gaming machines in the Bill is premised on there being different categories of machine for use in different locations and by different ages of user. For example, category A machines may only be used in casinos, and Category D machines are the only class of gaming machine that can be used by children and young people. The arguments against setting out the details of the categorisation in the Bill itself are conclusive. First, the categorisation will be technically detailed, referring to the stakes which can be used on the machines, the value and the nature of its prizes, and the premises where the machine is located, as the variables for the categorisation. Secondly, these variables require regular updating to take account of inflation and costs, and to ensure a proper balance between the commercial operation of machines and the protection of users.

199. Evidence that this is the case is provided by the existing regulation of gaming machines under the Gaming Act 1968. Sections 31, 32 and 34 of the 1968 Act set out the variables for the three types of gaming machine, and the Secretary of State has power to amend the matters set out there by regulations pursuant to the negative resolution procedure. The Department has needed to use such powers relatively frequently, there being five separate statutory instruments currently in force (and introduced between 1997 and 2001) pertaining to the stakes and prizes of different types of gaming machine. There have been no concerns about the exercise of these powers by statutory instrument, but the complexity of the resulting provisions on the face of the 1968 Act has been a further impetus for the Department to remove these technical matters of categorisation entirely from primary legislation to delegated legislation.

200. Accordingly, clause 230 gives the Secretary of State powers to make regulations prescribing four categories of machine, A to D, and within that, sub-categories of the B machine. Where sub-categories of B machine are defined (and it is the present intention to define four), the regulations may determine to which category of B machine a reference in the Bill relates. Regulations can also identify matters about which licence conditions cannot be made. This latter power will ensure the requirements for categories of machine are not undermined or changed by any condition placed on an operating or premises licence by the Commission or a licensing authority respectively. The Government made proposals for the stakes and prizes for gaming machines in its regulatory impact assessment for the Bill, published in October 2004.

201. The regulations under clause 230 [section 236] are to be made using the affirmative resolution procedure, bearing in mind that the categorisation of machines is a fundamental plank of the new regulatory system. The use of the affirmative resolution procedure accords with the recommendation of the Delegated Powers Committee in its Memorandum of March 2004.

202. The table below sets out the Department's current policy on the categorisation of gaming machines under this clause. It does not show the entitlement to numbers, which are set out elsewhere in the Bill.

Category	Maximum stake	Maximum prize	Location(s)
A	Unlimited	Unlimited	Regional casinos
B1	£1	£2,000	All casinos

B2	£100 per game; £15 per play within the game	£500	As above plus premises licensed for betting
B3	£1	£500	As above plus bingo clubs and adult gaming centres
B4	£1	£250	As above plus clubs and miners' welfare institutes
C	50p	£25	As above plus premises licensed for alcohol and licensed family entertainment centres
D	10p when a cash prize 30p when a non-cash prize	£5	As above plus unlicensed family entertainment centres and travelling fairs.

Annex B

Gaming machine entitlements under the Gaming Act 1968 as at 1 May 2007

Type of Machine	**Maximum Stake (£)**	**Maximum Prize (£)**	**Location(s)**	**Maximum number per premises**
Casino Jackpot Machine	£2 (with a prize of £4,000)[a] or £100 (with a prize of £500)[a]	£4,000[b] or £500 [a]	Casinos	20[1]
Jackpot or Club Machine	£1[c] £1[c]	£500[d] £250[d]	Bingo Premises Registered clubs	4[2] 3[3]
All-cash AWP	50p[e]	£35[f]	Casinos Betting shops Bingo Premises Adults-only arcades, adult-only areas of family and seaside arcades. Pubs and other	Can replace jackpot machines with AWPs, subject to limits on AWPs set by licensing authority[4] 2[5] Such number as permitted by licensing authority[6] Any number[7] As many as licensing

Type of Machine	Maximum Stake (£)	Maximum Prize (£)	Location(s)	Maximum number per premises
			premises with an alcohol on-licence. Registered clubs	authority permits. [8] No additional provision[9]
Coin or token AWP	30p[g]	£5 monetary prize[h] £8 non-monetary prize[i]	A wide range of premises: non-adult areas of family and seaside arcades, bowling alleys, motorway services, cafes, fish and chip shops, takeaways, taxicab offices, Travelling fairs. Non-commercial entertainment.	Arcades may have any number Other premises subject to limits imposed by appropriate authority[10] Unlimited [11] Unlimited [12]

Notes

Stakes and prizes

The following sections of the Gaming Act 1968 and statutory instruments (SI) determine the stakes and prizes set out in the table above. The SIs can be accessed on the website of the Office of Public Sector Information at: http://www.opsi.gov.uk/stat.htm

[a] S.31(3) Gaming Act 1968 (SI 2005/2776 art 2)
[b] S.31 (5) GA 1968 (SI 2005/2775 art 2)
[c] S.31(3) Gaming Act 1968 (SI 2006/2663 art 2)
[d] S.31(5) GA 1968 (SI 1998/2150 art 2)
[e] S.34(2) GA 1968 (SI 2006/2663 art 3)
[f] S.34(5C) GA 1968 (SI 2006/2663 art 3)
[g] S.34(2) GA 1968 (SI 1997/2079)
[h] S.34(3a and c, 4a) GA 1968 (SI 1997/2079)
i. S.34(3b and c) SI 1995/2288

Numbers of machines

[1] S.31(2)(c) of the Gaming Act 1968 as amended by SI 2005/2455, article 2(1) (commencing Schedule 16, paragraph 3(5)(a) of the Gambling Act 2005).
[2] S.31(2)(b) GA1968.
[3] S.31(2)(a) GA 1968.
[4] S.32(2) GA 1968.

[5] Sch 4, paragraph 10A Betting, Gaming and Lotteries Act 1963.
[6] S.32(3) GA 1968. . Bingo clubs may elect either type of AWP (s.34(5E)).
[7] Arcades may opt for either type of AWP, but access restrictions apply to all cash AWP areas S.34, and Schedule 9 paragraph 10B GA 1968.
[8] Schedule 9, paragraph 10 GA 1968.
[9] No separate allowance for AWPs since S31(2)(a) GA 1968 permits registered clubs 3 jackpot machines.
[10] Schedule 9 GA 1968 paragraph 10.
[11] S.34(1)(d) and (5) GA 1968, but machines cannot be only, or only substantial inducement.
[12] S.33 GA1968. The 2005 Gambling Act will repeal S33, and not replace it. There will be no gaming machines permitted at non-commercial entertainments under the 2005 Act.

Annex C

Gambling Act 2005 - Number of gaming machines permitted by premises

	Machine category (x = category of machine not permitted on this type of premises)						
Premises	**A**	**B1**	**B2**	**B3**	**B4**	**C**	**D**
Regional Casino[1]	1,250 (subject to table ratio)	Any combination of other categories of machines, B1 to D, within the total limit of 1250 (subject to table ratio)					
Large Casino[2]	x	150	Any combination of other categories of machines, B2 to D, within the total limit of 150 (subject to table ratio)				
Small Casino[3]	x	80	Any combination of other categories of machines, B2 to D, within the total limit of 80 (subject to table ratio)				
Existing "1968" casinos[4]	x	20 in total, any combination of category B				Any number of C or D ***instead*** of 20 B	
Premises licensed for betting and licensed tracks occupied by pool betting operating licensee[5]	x	x	4 in total, any combination of B2 to D				
Licensed Bingo Premises[6]	x	x	x	4 in total, any combination of B3 and B4		Any number of C and D	
Licensed Adult Gaming Centres[6]	x	x	x	4 in total, any combination of B3 and B4		Any number of C and D	
Clubs or Miners' welfare institutes with permits[7]	x	x	x	x	3 in total, any combination of B3A, B4, C or D		
Premises with bar licensed for alcohol consumption[8]	x	x	x	x	x	C or D - 2 automatically, with notification. In addition, as many as allowed by permit.	
Licensed	x	x	x	x	x	Any number of C	

Family Entertainment Centre (FEC)[9]						and D	
Unlicensed FEC[10]	x	x	x	x	x	x	D only Any number
Travelling Fair[10]	x	x	x	x	x	x	D only Any number

Notes

[1.] Regional casino: the regional casino must have a minimum of 40 gaming tables and will be permitted 25 machines for each gaming table available for play, i.e. a machine/table ratio of 25:1. The regional casino will need 50 tables to qualify for 1250 machines. See Section 172(3) of the Gambling Act ("Gaming Machines").

[2.] Large casinos: must have at least 1 gaming table. Large casinos will be permitted 5 machines for each gaming table available for play, i.e. a machine/table ratio of 5:1. A large casino will need 30 tables to qualify for the maximum 150 machines. Section172(4).

[3.] Small casinos: must have at least 1 gaming table. Small casinos will be permitted 2 machines per gaming table available for play, i.e. a machine/table ratio of 2:1. Must have 40 tables to qualify for maximum 80 machines. Section 172(5).

[4.] Existing "1968" casinos: not more than 20 category B machines (from 1st October 2005, SI 2005/2455). No machine/table ratio applies. Existing casinos will be able to opt to have no category B machines but unlimited category C and D machines (as is currently the case under section 32 of the 1968 Gaming Act).

[5.] Premises licensed for betting may have up to 4 machines in total, within categories B2 to D. Tracks which are licensed for betting only receive this entitlement if the holder of the track premises licence also holds a pool betting operating licence. Section 172(8) and (9).

[6.] Up to 4 category B3 or B4, or any combination of B3 and B4 machines (e.g. two of each) within the limit of four, plus any number of category C and D machines. Section 172 (1) or (7

[7.] A total of 3 machines, which can be any combination of category B3A, B4, C or D. The number and type of machines is reliant upon the club obtaining a club gaming permit or a club machine permit. Sections 271 and 273 and Schedule 12.

[8.] Up to 2 category C or D. S.282(1) gives automatic entitlement to 2 machines, if the holder of the relevant alcohol licence has notified the licensing authority of their intention to make gaming machines available, and has paid the required notification fee. More than 2 machines can be applied for under a permit from the licensing authority, which will determine the number which can be made available. Section 283 and Schedule 13 refer.

[9.] Any number of category C and D machines. Section 172(2). The Licensing Authority has no power to limit numbers.

10. Any number of category D machines in an unlicensed FEC. Section 247 and Schedule 10 refer. Any number of category D gaming machines at a travelling fair, section 287 refers - but, "facilities for gambling (whether by way of gaming machine or otherwise)" must be "no more than an ancillary amusement at the fair".