# EXPLANATORY MEMORANDUM TO

# THE GAMBLING ACT 2005 (OPERATING LICENCE CONDITIONS) (AMENDMENT) REGULATIONS 2024

## 2024 No. [XXXX]

## 1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Culture, Media and Sport and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Baroness Twycross, Minister for Gambling at the Department for Culture, Media and Sport confirms that this Explanatory Memorandum meets the required standard.

2.2 Sarah Fox, Deputy Director for Gambling and Lotteries, at the Department for Culture, Media and Sport confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Nat Fox at the Department for Culture, Media and Sport Telephone: 07525 387646 or email: gamblingactreview@dcms.gov.uk can be contacted with any queries regarding the instrument.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 This instrument will introduce maximum stake limits for online slots games for the first time. This instrument will introduce maximum stake limits of £5 per game cycle for customers aged 25 years or over, alongside a lower limit of £2 per game cycle for customers aged 18 to 24 years. The effect of this instrument is that gambling operators who provide online slots games under a remote casino operating licence will be required to restrict stake limits for online slots games to £5 or £2 depending on the age of the customer. This instrument also sets out a transitional period of six weeks from the day the instrument comes into force during which a maximum stake limit of £5 will apply to all customers. After this six-week transitional period, the maximum limits of £5 for customers aged 25 years or over and £2 for customers aged 18 to 24 years will apply. The transitional period is intended to allow gambling operators sufficient time to make the necessary technical changes in order to implement the different limits.

***Where does the legislation extend to, and apply?***

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

## 5. Policy Context

***What is being done and why?***

5.1 Unlike physical gaming machines in casinos and bookmakers (offering games which are otherwise similar to online slots games), online slots games are not currently subject to statutory stake limits.

There is strong evidence that online slots games are one of the highest-risk gambling products due to rapid and repetitive play, and the current ability to stake theoretically unlimited amounts is likely to exacerbate gambling harm. Online slots games are associated with one of the highest average losses per customer of any gambling product. While concentrated or high spend does not necessarily equate to harm, there are a number of other signs that online slots games as currently available involve factors that have been shown to be associated with elevated risk of gambling-related harm to consumers. For example, online slots games are associated with binge activity and high levels of use by those who went on to seek support for gambling-related harm compared to other gambling products.

Given this evidence of particular risk, there was significant discussion in submissions to the Gambling Act 2005 Review Call for Evidence in 2020 on the case for a stake limit on online slots games and some media coverage. In April 2023 the previous Government published a white paper, 'High Stakes: Gambling Reform for the Digital Age'[1]. The introduction of stake limits for online slots games was a key white paper proposal, as covered in 'Chapter 1: Online protections – players and products'. A public consultation was run in July 2023, inviting views on the maximum stake limits for online slots games. The consultation is covered in further detail in section 7 of this document.

The Culture, Media and Sport Committee published a report[2] into gambling regulation in December 2023. The Committee recommended that stake limits for online slots games should match those for electronic gaming machines in land-based venues and should not exceed £5. The previous Government provided a response to the Select Committee report[3] in April 2024.

The introduction of maximum stake limits for online slots games via this instrument is intended to structurally limit the risks of harmful play and ensure an equitable approach to the regulation of online and land-based gambling. The Government expects that the imposed limits should serve as a maximum stake which customers can choose to stake up to, rather than as a default which operators drive customers towards, or which is otherwise seen as objectively 'safe'.

Due to the complexity of gambling harms, it is not possible to precisely project the reduction in gambling-related harm as a result of this measure or the wider package of measures. However, any reduction in such harms is likely to reduce the associated societal and Government costs. This is further explored in the impact assessment.

[1] Government white paper on gambling, April 2023: https://www.gov.uk/government/publications/high-stakes-gambling-reform-for-the-digital-age
[2] Culture, Media and Sport Committee: Gambling regulation – Second Report of Session 2023-24, December
[3] Government Response to the Committee's Second Report, April 2024: https://publications.parliament.uk/pa/cm5804/cmselect/cmcumeds/698/report.html

***What was the previous policy, how is this different?***

5.2 In Great Britain, there are currently no statutory limits on the amount people can stake on online slots games.

The introduction of stake limits via this instrument will build on existing controls specific to online slots games. These include limits on spin speeds, a ban on features that speed up play, or give the illusion of control or celebrate losses as wins. These measures were brought in via Gambling Commission licence conditions in 2019 to strengthen the protections for those who gamble through online slots games as the evidence suggests these features increase the risk of harm to customers.

Currently, gambling operators are required to hold an operating licence where they are providing gambling facilities to British customers. This includes the provision of facilities for online gambling, where at least one piece of remote gambling equipment used for the provision of the facilities is situated in Great Britain or in situations where the facilities are used in Great Britain, even if none of the equipment is situated in Great Britain. This position remains unchanged by this instrument. The stake limits for online slots games will apply to all remote casino operating licences issued by the Gambling Commission and the Gambling Commission will be able to exercise its existing enforcement powers to ensure compliance.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Section 78 of the Gambling Act 2005 ("the 2005 Act") gives the Secretary of State the power to provide for a specified condition to be attached to operating licences falling within a specified description by regulations. Subsection (2) makes clear that transitional provision of regulations may apply a condition, with or without modifications, to licences issued before the regulations are made or come into force.

This instrument provides for a condition to be attached to all remote casino operating licences, including remote casino operating licences which were issued before this instrument comes into force (but where the condition is attached to a remote casino operating licence which was issued before this instrument comes into force, the condition has effect from the date on which the instrument comes into force). The condition is that the maximum amount which may be staked in relation to an online slots game is £5 for customers aged 25 or over, and £2 for customers aged 18 to 24 years. This instrument also provides for a transitional period of six weeks from the day the instrument comes into force during which a maximum stake limit of £5 will apply to all customers. After this six-week transitional period, the maximum limits of £5 for customers aged 25 years or over and £2 for customers aged 18 to 24 years will apply.

This instrument amends the Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 (S.I. 2007/2257) ("the 2007 Regulations") to insert the new condition and the transitional provision. It also amends the 2007 Regulations to include a review provision.

***Why was this approach taken to change the law?***

6.2 Section 75 of the 2005 Act enables the Gambling Commission to specify conditions to be attached to operating licences falling within a specified class. However, given that

stake limits are being imposed on online slots games for the first time, it was considered appropriate for the Secretary of State to specify a condition by regulations in exercise of the power under section 78 of the 2005 Act, due to the nature of the condition. As such, this instrument amends the 2007 Regulations to insert a new condition in relation to remote casino operating licences.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 From 26 July to 4 October 2023, the Department for Culture, Media and Sport (DCMS) ran a public consultation on proposals for the introduction of a maximum stake limit for online slots games in Great Britain[4]. In line with the white paper commitment, the consultation invited views and evidence on a stake limit for online slots games of £2, £5, £10 or £15 per game cycle. It also outlined options for additional protections for adults aged 18 to 24 of a £2 limit, a £4 limit, or specific protections on a case-by-case basis. A consultation stage impact assessment[5] including a cost/benefit analysis was published alongside the consultation document.

The consultation received 96 responses, including stakeholders representing industry and campaign/charity organisations, as well as academics, local authorities and members of the public. In addition, the consultation received survey results from 3,898 members of campaigning organisation 38 Degrees and a petition set up by Gambling With Lives signed by 12,775 people.

The majority of the 96 consultation respondents supported a general stake limit of £2 or lower. Most respondents from the gambling industry were in favour of a £10 limit. Overall, once the open text responses had been analysed, the majority (60%) of respondents were found to favour a stake limit of £2 or under for adults aged 18 to 24 years.

Following consideration of consultation responses, in February 2024, the previous Government published a response[6] to this consultation. This announced the previous Government's intention to introduce stake limits of £5 for adults aged 25 years or over and a lower stake limit of £2 for adults aged 18 to 24 years. Having considered the existing evidence and consultation, the new Minister for Gambling has decided to introduce the statutory stake limits at these levels to promote a reduction in gambling harms.

## 8. Applicable Guidance

8.1 The Gambling Commission will publish information to highlight the requirements in the new licence condition once this instrument has been made.

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[4] Government consultation on the introduction of maximum stake limits for online slots games, July 2023: https://www.gov.uk/government/consultations/a-maximum-stake-limit-for-online-slots-games-in-great-britain/consultation-on-proposals-for-a-maximum-stake-limit-for-online-slots-games

[5] Government consultation stage impact assessment, July 2023: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1173441/Online_Slots_Stake_Limit_Impact_Assessment.pdf

[6] Government response to consultation on the introduction of stake limits for online slots games, February 2024: https://www.gov.uk/government/consultations/a-maximum-stake-limit-for-online-slots-games-in-great-britain/outcome/government-response-to-consultation-on-proposals-for-the-introduction-of-a-maximum-stake-limit-for-online-slots-games-in-great-britain

## Part Two: Impact and the Better Regulation Framework

### 9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

***Impact on businesses, charities and voluntary bodies***

9.2 The impact on business, charities or voluntary bodies is most significant for online gambling operators with the theoretical decrease in revenue from customers who may have wished to stake amounts above the stake limit, but are unable to do so under the new limits. The Government estimates that the introduction of stake limits will result in a reduction to industry's Gross Gambling Yield (GGY) of 5.6%, compared to the estimated annual GGY under the counterfactual. In the first year of implementation, this is expected to be approximately £164.8m. It is expected that, after the first year of implementation, online gambling GGY from online casino games will continue to grow following an overall rising trend. Alongside the GGY reduction, there will be other costs to operators, such as the implementation costs required to test and deploy stake limits on live games. These are explored fully in the impact assessment, which will be published alongside the instrument.

9.3 The legislation does impact small or micro businesses.

9.4 Following consideration, the Government's view is that this measure should not include an exemption for micro or small businesses. In order to achieve the policy objectives, any stake limit for online slots games must apply to all operators. The Government considers that any mitigations relating to stake limits (such as allowing small and micro businesses to offer higher limits temporarily) would lead to a suboptimal impact on gambling harm.

9.5 The impact on the public sector is that the Government expects any reduction in gambling harm would reduce the costs to individuals affected and associated costs to the public sector. However, as this policy is part of a wider package of measures it is difficult to accurately estimate its impact on a reduction in gambling harm. The Gambling Commission, as a public body, expects to incur some transitional costs to cover initial compliance activity relating to the implementation of stake limits for online slots games. The public sector impact is further explored in the impact assessment.

### 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is overseen by DCMS and the Gambling commission for the wider white paper measures, including stake limits for online slots games and includes a joint monitoring and evaluation plan.

10.2 A statutory review clause is included in the instrument.

## Part Three: Statements and Matters of Particular Interest to Parliament

### 11. Matters of special interest to Parliament

11.1 None.

### 12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State has made the following statement regarding Human Rights:

"In my view the provisions of the Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2024 are compatible with the Convention rights."

### 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").