EXPLANATORY MEMORANDUM TO

THE GAMBLING ACT 2005 (OPERATING LICENCE CONDITIONS) 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

2.1 These Regulations prescribe conditions that will be attached to operating licences under section 78 of the Gambling Act 2005 ("the Act"). They will attach to all casino operating licences conditions regarding the use of wholly automated gaming tables, and to all bingo operating licences conditions certain monetary limits in respect of prize gaming.

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

3.1 None.

4. Legislative Background

4.1 These draft regulations are being proposed as part of the implementation of the Act. They are the first use of these powers.

4.2 The Act establishes a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting. It repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act introduces a new regulator for gambling, the Gambling Commission, and a new licensing regime for commercial gambling. As part of the new licensing regime, the Act provides for three main types of licence. Operating and personal licences, which are issued by the Gambling Commission, and premises licences which are issued by licensing authorities.

4.3 Operating licences are one of the principal forms of authorisation under the Act for the lawful provision of facilities for gambling. These will be held by people who wish to provide facilities for commercial gambling and, in general, it will be an offence to provide such facilities without an operating licence. A person holding an operating licence, and providing facilities for gambling within the terms and conditions of that licence, will not commit an offence of unlawful provision of facilities for gambling under Part 3. Operating licences will be issued and overseen by the Gambling Commission.

4.4 There are three types of licence conditions that may be attached to operating licences under the Act: general conditions and individual conditions, both of which are attached by the Commission; and conditions imposed by the Secretary of State.

4.5 General Conditions – These are conditions which the Gambling Commission may specify for an operating licence or a class of operating licence, and which have general application.

4.6 Individual Conditions – These are specific conditions which the Gambling Commission may impose on individual operating licences. These conditions will address particular matters concerning an individual operator and its activities, where the Commission considers it appropriate.

4.7 Secretary of State Conditions – These are specific conditions which may be attached to a class of operating licence by the Secretary of State through regulations.

4.8 These Regulations prescribe Secretary of State conditions that will be attached to:
(a) casino operating licences in relation to wholly automated gaming tables; and,
(b) bingo operating licences in relation to limits for prize gaming.

Wholly Automated Table Gaming

4.9 Section 235(1) of the Act defines a gaming machine as "a machine which is designed or adapted for use by individuals to gamble". Sub-section (2) goes on to list a number of exemptions from this definition, which includes at 235(2)(i) an exemption for wholly automated versions of real casino games.

4.10 This exemption was provided because the government accepted that this equipment, which may only be provided in casinos, merely provided an automated means of playing a real casino game. Automated roulette is a typical example of such a game: this would consist of a real roulette wheel which spins automatically, connected to a number of electronic terminals on which players would stake money.

4.11 Section 174(6) of the Act requires regulations to be made in relation to casino premises licences imposing limits on automated table games. The Act states that these limits may, in particular, operate by reference to the number of players that these machines are designed or adapted to accommodate. Ministers announced during the Gambling Bill second reading debate in the House of Lords that the maximum number of automated table game player positions in a casino will be 40 (6 April 2005 col 837). This limit was put in place through the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007 [SI 2007 No. 1409] made on 5 May 2007.

4.12 As part of the consultation on that Order, the government consulted on its view that, as these are automated versions of table games, they should be regulated along broadly similar lines to table games. To help distinguish these wholly automated table games from gaming machines, the government proposed setting a minimum number of four player positions, and a maximum number of eight player positions, per wholly automated table.

4.13 In view of the technical nature of the proposal, it was subsequently decided that this matter might be dealt with more appropriately through mandatory operating (rather than mandatory premises) licence conditions. This will mean that the Gambling Commission rather than licensing authorities will be responsible for monitoring compliance with this requirement, which it will be able to do alongside its wider

responsibilities for setting and ensuring compliance with conditions attached to operating licences under section 85 of the Act, relating to the specification of equipment used to provide facilities for gambling.

Prize gaming

4.14 Part 13 of the Act concerns prize gaming. This Part of the Act replaces and updates Section 21 of the Gaming Act 1968 and Section 16 of the Lotteries and Amusements Act 1976.

4.15 Prize gaming is defined in section 288 of the Act, and is gaming in which neither the nature nor the size of a prize are determined by the number of persons playing or the amount paid for or raised by the gaming. It is intended to permit low level gaming for small participation fees and modest prizes. Bingo played at seaside amusement arcades is typical of this type of gaming. The Act permits children to participate in certain prize gaming, and prize gaming can be offered in family entertainment centres, at travelling fairs and in other non-gambling premises (like theme parks) all of which are frequented by children. Part 13 does not authorise the use of any gaming machines.

4.16 As under existing legislation, the holders of certain permissions under the new Act (bingo halls, adult gaming centres, licensed family entertainment centres and holders of family entertainment centres gaming machine permits) will be automatically entitled to offer prize gaming, and will not require a separate prize gaming permit to offer this type of gaming. The Act also authorises prize gaming to be offered at travelling fairs without the need for a permit. Other premises will also be able offer prize gaming, if they obtain a prize gaming permit from their licensing authority.

4.17 Section 291 of the Act authorises the provision of prize gaming in premises in respect of which a bingo operating premises licence has effect. This replicates the provisions under section 21 of the Gaming Act 1968 which conferred certain entitlements to offer gaming for prizes on bingo premises licensed under that Act.

4.18 Section 291 permits holders of a bingo premises licence to offer prize gaming, provided the gaming complies with any conditions attached to the relevant bingo operating licence. Such conditions may be imposed by the Gambling Commission or by the Secretary of State. Conditions imposed by the Secretary of State may relate to any of the matters listed in section 91(1) of the Act, such as imposing limits on the amounts that may be staked and the amount or value of prizes that may be offered.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

Richard Caborn has made the following statement regarding Human Rights:

In my view the provisions of the Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 are compatible with the Convention rights.

7. Policy background

7.1 The Act establishes a new system for the regulation of gambling in Great Britain. It enshrines three licensing objectives, which have informed the government's approach to the development of these proposed regulations:

(i) to prevent gambling from being a source of crime of disorder, being associated with crime or disorder of being used to support crime;
(ii) to ensure that gambling is conducted in a fair and open way and
(iii) to protect children and other vulnerable persons from being harmed or exploited by gambling.

Wholly Automated Table Gaming

Policy

7.2 As explained in 4.10 above, wholly automated casino tables were granted an exemption from the general gaming machine definition included in the Act because the government accepted that this equipment, which may only be provided in casinos, merely provided an automated means of playing a real casino game. As such, the government accepted that it was more appropriate to regulate them on a broadly comparable basis to ordinary gaming tables rather than gaming machines.

7.3 Had this exemption not been introduced, casinos could only have offered this equipment within their gaming machine entitlement (currently 20 machines in existing casinos), and it would have been subject to gaming machine stake and prize limits.

7.4 There is no formal requirement for the Secretary of State to set a requirement for the minimum number of player positions per wholly automated table. However, ministers felt that it was necessary to do so because otherwise it would be possible for casinos to offer, for example, wholly automated gaming tables that had only one player position and which were, therefore, effectively indistinguishable from gaming machines. The government did not consider that it was in the interests either of the industry, or of good regulation, for the justification for the exemption to be undermined in this way.

Consultation

7.5 As noted in 4.12 above, the proposal to establish a minimum number of player positions for wholly automated casino games was included in informal and formal consultation papers on mandatory and default premise licence conditions published in 2006. The formal consultation paper was published on 18 August 2006, and the consultation period ended on 10 November 2006.

7.6 The informal consultation paper also proposed setting a maximum number of player positions per automated table. However, in the light of responses to the informal consultation, and particularly in the light or representations from the British Casino Association (BCA), the Casino Operators' Association and individual casino operators, the government decided not to proceed with this proposal.

7.7 Of the respondents to the formal consultation paper who commented on the proposal to establish a minimum of four player positions, roughly equal numbers of respondents agreed and disagreed with this proposal.

7.8 The BCA's response suggested that a minimum requirement would be unwelcome because it would fetter the development of automated gaming table technology and impair the ability of smaller operators to offer what customers want. However, other respondents, including some operators in the casino industry, agreed that there should be a minimum limit and agreed that it should be set at 4.

7.9 While ministers noted the points made by the BCA, they concluded that a minimum number of player positions was necessary to reinforce the distinction between wholly automated gaming tables and gaming machines for the reasons set out in 7.4 above.

Prize gaming

Policy

7.10 Prize gaming is one of the less know and less used gambling entitlements. The provisions included in the Act preserve and update entitlements included in earlier legislation – specifically Section 21 of the Gaming Act 1968 and Section 16 of the Lotteries and Amusements Act 1976.

7.11 The Home Office Guide to the 1968 Act explained the background to the introduction of prize gaming in bingo clubs: "Section 21 permits licensed clubs, as of right, to provide gaming for small prizes on conditions resembling those under which such gaming may be provided by travelling showmen or at pleasure grounds and amusement arcades on permit from the local authority. This provision is likely to be of service to bingo clubs, where it can be used to provide diversions of the fairground type, in place of the roulette, blackjack and similar games now often played between bingo games and which the Act seeks to discourage."

7.12 The explanatory notes to the Act made it clear that the intention behind these provisions remained broadly similar. Paragraph 725 of the explanatory notes to the Act stated: "Prize gaming is intended to permit low level gaming, for small participation fees, and modest prizes." This is why children are permitted to participate in certain forms of prize gaming at family entertainment centres, travelling fairs and other venues with a prize gaming permit.

7.13 The government's policy is that prize gaming should retain this essential character as a low level, low risk form of gambling, and this has been fundamental to the approach it has taken to developing these regulations.

Consultation

7.14 The Department published a formal consultation paper on limits for prize gaming on 12 March 2007 which took account of informal representations made by the Bingo Association among other groups.

7.15 The consultation paper was sent to a wide range of stakeholders including members of the Department's industry liaison group, community liaison group and LACORS. The closing date for responses to the consultation paper was on 31 May.

7.16 The Department received eight substantive responses to the consultation:

- the Bingo Association and two bingo companies were critical of the proposals which they argued did nothing to assist the bingo industry. The Bingo Association questioned the historical basis for the proposed policy, and suggested that higher levels of participation fee/prize would with appropriate safeguards be appropriate in adult-only environments. The Association proposed the introduction of a £1 maximum participation fee and £500 maximum cash prize;

- BACTA questioned the evidence base for the proposals and proposed a £2 maximum participation fee and £100 maximum cash prize;

- the Salvation Army and Methodist Church (in a joint response) and Prof Jim Orford (Professor of Clinical and Community Psychology at Birmingham University) broadly supported the Department's generally cautious approach to prize gaming, but opposed the proposed increase in the maximum cash prize from £25 to £35 on the grounds that this could prove attractive to children;

- two Scottish Licensing Boards (Glasgow and North Lanarkshire) were broadly supportive of the proposals, and specifically that strict limits on participation fees and prizes were important for maintaining the essential character of prize gaming as a softer form of gambling.

7.17 The government considered carefully representations from church groups and others who argued forcefully for retaining existing limits for all operators of prize gaming. However, ministers were also mindful that the existing limits had been in place for between five and eight years and that some modest increases may be appropriate.

7.18 Ministers considered carefully the Bingo Association's suggestion that the current consultation and regulations presented an opportunity to modernise the rules governing prize gaming by increasing the participation fee and maximum cash prize. However, they took the view that a £1 participation fee and £500 cash prize (equivalent to a Category B3 gaming machine) proposed by the Association would take prize gaming into the realm of harder gambling. This was not the intention behind the prize gaming provisions either originally or in their Gambling Act 2005 form.

7.19 Ministers were, however, swayed by the suggestion that some differential treatment for adult-only licensed premises may be possible, without prejudicing the intention that prize gaming should remain at a low level. They have, therefore, decided to allow licensed bingo halls, but strictly only those which do not permit under 18s to enter the premises, to offer a maximum cash prize of £50 – which will be double that currently permitted. A similar higher maximum cash prize limit will be introduced for licensed adult gaming centres through a separate order setting limits on prize gaming in venues other than licensed bingo halls.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The regulations will have no cost implications for the public sector.

9. Contact

David Fitzgerald at the Department for Culture, Media and Sport (Tel: 020 7211 6479 or e-mail: David.Fitzgerald@culture.gsi.gov.uk) will answer any queries regarding the instrument.

Department for Culture, Media and Sport

Regulatory Impact Assessment

1. Title of proposal

The Gambling Act 2005 (Operating Licence Conditions) Regulations 2007

2. Purpose and intended effect

Objectives

The draft Order:

(i) seeks to reinforce the distinction between wholly automated gaming tables in casinos and gaming machines by establishing that wholly automated gaming tables should be required to offer a minimum of four player positions; and,

(ii) prescribes the following limits on prize gaming that may take place in licensed bingo halls:

- the participation fee for any one chance to win a prize in a game played under Part 13 must not exceed 50p;
- the aggregate total of participation fees paid to participate in any one game must not exceed £500;
- the maximum cash prize shall be £35, or £50 where no children are permitted to enter the bingo hall;
- the aggregate amount or value of the prizes (both cash and non-cash) in any game shall not exceed £500.

Background

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

The government has announced previously that the formal implementation date for the Gambling Act 2005 will be 1 September 2007. On this date, the majority of permissions issued under the existing legislation will expire and be replaced by new licences and permits issued under the 2005 Act.

Operators of casinos and bingo halls will need to obtain the following permissions if they wish to continue to operate under the new Act:

- an operating licence from the Gambling Commission;
- relevant personnel will require personal licences from the Gambling Commission; and,
- a premises licence from their licensing authority.

Part 5 of the Act establishes the new system of operating licences to be administered by the Gambling Commission. Section 78 of the Act enables the Secretary of State to attach

conditions to different categories of operating licence, including casino operating licences and bingo operating licences.

(i)

Wholly automated gaming tables

Section 235(1) of the Act defines a gaming machine as "a machine which is designed or adapted for use by individuals to gamble". Sub-section 2 goes on to list a number of exemptions from this definition, which includes at 235(2)(i) an exemption for wholly automated versions of real casino games.

This exemption was provided because the government accepted that this equipment, which may only be provided in casinos, merely provided an automated means of playing a real casino game. Automated roulette is a typical example of such a game: this would consist of a real roulette wheel which spins automatically, connected to a number of electronic terminals on which players would stake money.

Section 174(6) of the Act requires regulations to be made in relation to casino premises licences imposing limits on automated table games. The Act states that these limits may, in particular, operate by reference to the number of players that these machines are designed or adapted to accommodate. Ministers announced during the Gambling Bill second reading debate in the House of Lords that the maximum number of automated table game player positions in a casino will be 40 (6 April 2005 col 837). This limit was put in place through the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007 [SI 2007 No. 1409] made on 5 May 2007.

As part of the consultation on that Order, the government consulted on its view that, as these are automated versions of table games, they should be regulated along broadly similar lines to table games. To help distinguish these wholly automated table games from gaming machines, the government proposed setting a minimum number of four player positions, and a maximum number of eight player positions, per wholly automated table.

The minimum requirement for four player positions was intended to prevent the development of wholly automated table games designed only for one or very few players, which would blur the distinction between wholly automated table games and gaming machines, and undermine the rationale for the exemption of such equipment from the regulations in Part 10 of the Act.

(ii) Prize gaming

Part 13 of the Gambling Act 2005 concerns prize gaming. This Part of the Act replaces and updates Section 21 of the Gaming Act 1968 and Section 16 of the Lotteries and Amusements Act 1976.

Prize gaming is defined in section 288 of the Gambling Act, and is gaming in which neither the nature nor the size of a prize are determined by the number of persons playing or the amount paid for or raised by the gaming. It is intended to permit low level gaming for small participation fees and modest prizes. Bingo played at seaside amusement arcades is typical of this type of gaming. Part 13 does not authorise the use of any gaming machines.

The Act permits children to participate in certain prize gaming, and prize gaming can be offered in family entertainment centres, at travelling fairs and in other non-gambling premises (like theme parks) all of which are frequented by children.

As under existing legislation, the holders of certain permissions under the new Act (bingo halls, adult gaming centres, licensed family entertainment centres and holders of family entertainment centres gaming machine permits) will be automatically entitled to offer prize gaming, and will not require a separate prize gaming permit to offer this type of gaming. The Act also authorises prize gaming to be offered at travelling fairs without the need for a permit. Other premises will also be able offer prize gaming, if they obtain a prize gaming permit from their licensing authority. However we anticipate that very few premises will obtain such permits, and the bulk of those that do are likely to be holiday parks and theme parks.

Rationale for government intervention

(i) Wholly automated gaming tables

The intention behind this proposal is to ensure that wholly automated gaming tables are regulated along broadly similar lines to ordinary gaming tables, and to reinforce the distinction between wholly automated gaming machines and gaming machines created by the Act, so that the reasons for exempting this equipment from the gaming machine definition are not undermined.

(ii) Prize gaming

The intention behind these proposals is to ensure that prize gaming retains its essential character as intended by Parliament as a low level gambling activity, and to ensure that this form of gaming is controlled and the public in general, and children in particular, are protected.

3. Consultation

Within government
DCMS has consulted the Gambling Commission on our proposals.

Public consultation

(i) Wholly automated gaming tables

The proposal to establish a minimum number of player positions for wholly automated casino games was included in informal and formal consultation papers on mandatory and default premise licence conditions published in 2006. The formal consultation paper was published on 18 August 2006, and the consultation period ended on 10 November 2006.

In the light of responses to the informal consultation, and particularly in the light or representations from the British Casino Association (BCA), the Casino Operators' Association and

individual casino operators, the government decided not to proceed with its proposal to introduce a maximum number of player positions per automated table. The government listened carefully to the views of the industry on this point, and in particular recognised that it was difficult to be precise about how many player positions an ordinary roulette or dice table may provide.

Of the respondents to the formal consultation paper who commented on the proposal to establish a minimum of four player positions, roughly equal numbers of respondents agreed and disagreed with this proposal.

The BCA's response suggested that a minimum requirement would be unwelcome because it would fetter the development of automated gaming table technology and impair the ability of smaller operators to offer what customers want. However, other respondents, including some operators from the casino industry, agreed that there should be a minimum limit and agreed that it should be set at 4.

In view of the technical nature of the proposal, it was subsequently decided that this matter might be dealt with more appropriately through mandatory operating (rather than mandatory premises) licence conditions. This will mean that the Gambling Commission rather than licensing authorities will be responsible for monitoring compliance with this requirement, which it will be able to do alongside its wider responsibilities for ensuring compliance with the Commission's technical standards for this equipment.

(ii) Prize gaming

The Department published a formal consultation paper on limits for prize gaming on 12 March 2007 which took account of informal representations made by the Bingo Association among other groups.

The consultation paper was sent to a wide range of stakeholders including members of the Department's industry liaison group, community liaison group and LACORS. The closing date for responses to the consultation paper was on 31 May.

The Department received eight substantive responses to the consultation:

- the Bingo Association and two bingo companies were critical of the proposals which they argued did nothing to assist the bingo industry. The Bingo Association questioned the historical basis for the proposed policy, and suggested that higher levels of participation fee/prize would with appropriate safeguards be appropriate in adult-only environments. The Association proposed the introduction of a £1 maximum participation fee and £500 maximum cash prize;

- BACTA questioned the evidence base for the proposals and proposed a £2 maximum participation fee and £100 maximum cash prize;

- the Salvation Army and Methodist Church (in a joint response) and Prof Jim Orford (Professor of Clinical and Community Psychology at Birmingham University) broadly supported the Department's generally cautious approach to prize gaming, but opposed the proposed increase in the maximum cash prize from £25 to £35 on the grounds that this could prove attractive to children;

- two Scottish Licensing Boards (Glasgow and North Lanarkshire) were broadly supportive of the proposals, and specifically that strict limits on participation fees and prizes were important for maintaining the essential character of prize gaming as a softer form of gambling.

4. Options

(i) Wholly automated gaming tables

Option 1 - Set no minimum limit

There is no formal requirement for the Secretary of State to set a minimum requirement for the minimum number of player positions per wholly automated table. However, ministers felt that it was necessary to do so because otherwise it would be possible for casinos to offer wholly automated gaming tables that had only one player position and which were, therefore, effectively indistinguishable from gaming machines. In the Act, wholly automated gaming tables are exempted from the definition of gaming machines on the basis that they are merely automated versions of real games of chance and, therefore, it is more appropriate to regulate them on a broadly comparable basis to ordinary gaming tables rather than gaming machines. Allowing automated tables that only had one player position would undermine this rationale.

While ministers noted the points made by the BCA, they concluded that a minimum number of player positions was necessary to reinforce the distinction between wholly automated gaming tables and gaming machines. It is important to note that if this distinction were undermined, there might be no justification for exempting this equipment from the gaming machine definition in the Act, and casinos would only be able to offer this equipment within their respective gaming machine entitlement under the Act (for existing casinos, 20 gaming machines). In such circumstances, this equipment would also be subject to the stake and prize limits for gaming machines laid down in the Act.

It is also important to note that the government, having considered carefully the representations made by the BCA also decided not to proceed with a proposal to impose a maximum number of player positions per table.

Option 2 – Set a minimum limit higher than 4

The government considered carefully whether a minimum of eight player positions should be adopted. The Gambling Commission's current advice to licensing magistrates noted that: "The

Commission believes, and the industry has accepted, that eight electronic playing positions should be taken as the equivalent of one traditional table in demand calculations."

However, the government was also aware that some real gaming tables commonly in use in casinos are configured for fewer than eight players, and as such eight seemed an unnecessarily high number for the purposes of these regulations.

Option 3 - Set a minimum limit lower than 4

The government also considered whether a number lower than four might be acceptable. Again, the parallel that was considered was with real gaming tables. It would be unusual for real gaming tables to be configured for one person or very few people, not least because it is unlikely to be economic for tables to be run in this way. Furthermore, the fewer the terminals that are attached to a single real table game, the more the justification for exempting this equipment from the gaming machine definition in the first place is undermined.

Option 4 - Set a minimum limit of 4

The government concluded that a minimum of four player positions struck a fair balance: on the one hand ensuring that there was sufficient distinction between wholly automated table games and gaming machines; and, on the other ensuring that there was sufficient similarity between wholly automated table games and real table games in terms of the number of player positions at each.

(ii) Prize gaming

Option 1 - Set no limits

There is no formal requirement for the Secretary of State to set limits for prize gaming, and she may decide not to do so. However, if she did not set a limit on prize gaming, this would effectively allow casino-style gaming for unlimited stakes and prizes to take place in any venue permitted to offer non-equal chance prize gaming, including bingo halls, adult gaming centres and licensed family entertainment centres. The government does not consider that this would be consistent with the cautious approach it has taken to the reform of gambling laws as a whole.

Option 2 - Substantial increase in current limits for maximum participation fee and maximum cash prize

Ministers considered carefully the Bingo Association's suggestion that the current consultation and regulations presented an opportunity to modernise the rules governing prize gaming by increasing the participation fee and maximum cash prize. However, they took the view that a £1 participation fee and £500 cash prize (equivalent to a Category B3 gaming machine) proposed by the Association would take prize gaming into the realm of harder gambling. This was not the intention behind the prize gaming provisions either originally or in their 2005 form.

The Home Office Guide to the 1968 Act explained that: "Section 21 permits licensed clubs, as of right, to provide gaming for small prizes on conditions resembling those under which such gaming may be provided by travelling showmen or at pleasure grounds and amusement arcades on permit from the local authority. This provision is likely to be of service to bingo clubs, where it can be used to provide diversions of the fairground type, in place of the roulette, blackjack and similar games now often played between bingo games and which the Act seeks to discourage."

While the new Act sought to preserve and update the earlier prize gaming entitlements, the intention behind these provisions remained broadly similar. Paragraph 725 of the explanatory notes to the Act made it clear that: "Prize gaming is intended to permit low level gaming, for small participation fees, and modest prizes."

Ministers were, however, swayed by the suggestion that some differential treatment for adult-only licensed premises may be possible, without prejudicing the intention that prize gaming should remain at a low level. They have, therefore, decided to allow licensed bingo halls, but strictly only those which do not permit under 18s to enter the premises, to offer a maximum cash prize of £50 - which will be double that currently permitted. A similar higher maximum cash prize limit will be introduced for licensed adult gaming centres through a separate order setting limits on prize gaming in venues other than licensed bingo halls.

This will still not prevent operators offering non-cash prizes up to the value of £500 in any one determination of winners.

Option 3 - Retain existing limits

This option was very attractive, as it would certainly have enabled the government to fulfil its objective to ensure that prize gaming remained a low level gambling activity. The government found that some of the limits in the existing law remain at broadly the right level and useful from a regulatory perspective. It was also an option that received support during the consultation process from church groups.

However, ministers were also mindful that the existing limits had been in place for between five and eight years. They also considered that some modest increases may be appropriate to help iron out inconsistencies in the current legislation between different premises permitted to offer prize gaming, and to bring the cash prize limit into line with that for Category C gaming machines.

Option 4 - Retain existing limits but with a modest increase to certain limits

Broadly speaking the government considered that the existing limits were consistent with Parliament's intentions when passing the prize gaming provisions of the new Act, and the existing limits would help ensure that prize gaming remains a low level gambling activity, typical of the sort of amusements that people enjoy at the seaside and other family attractions.

In the past the participation fee and cash prize limit for prize gaming has been kept broadly in line with the stake and prize limit for what will become Category C gaming machines under the new Act. While the existing 50p participation fee limit is the same as the maximum stake now in force for what will become Category C gaming machines, the maximum cash prize for such a machine has recently been increased to £35. Ministers have, therefore, proposed an increase in the maximum cash prize for prize gaming from £25 to £35 in any unlicensed venues or venues where children are permitted to enter to bring it into line.

The current legislation poses a difficulty: the reference to "any one chance" to win means that a person can purchase more than one chance in a single game. There is a risk that this could encourage some players to increase their chances of winning by purchasing a large number of chances in a single game.

The existing limits under Section 21 of the 1976 Act of £500 on the aggregate participation fees in any one game, and the same limit on the amount or value of the prizes (both cash and non-cash) in any game, provide useful safeguards to mitigate against this sort of potential problem.

5. Costs and benefits

(i) Wholly automated gaming tables

Most Casinos in Great Britain offer wholly automated gaming tables. There are currently 138 casinos operating in Great Britain.

The Department is not aware, and no evidence was presented to us during the consultation period, of any casinos which are currently operating wholly automated gaming tables with fewer than four player positions. Indeed, it is unlikely that casinos would consider that it was economically viable to invest in a wholly automated casino game which enabled three or fewer players to play.

We are not aware, and no evidence was presented to us during the consultation period, of any manufacturers currently producing wholly automated table games which offer fewer than four player positions. This is likely to reflect industry demand, which in turn reflects the economic viability point highlighted above. Either the gaming table and player terminals will be wholly integrated, and in such cases games are normally configured to enable at least 6 or 8 people to play. Or the terminals will be

supplied separately. The regulation will effectively mean that casinos will have to invest in at least four of these terminals.

(ii) Prize gaming

Sectors and groups affected
These proposals will affect all licensed bingo halls operating in Great Britain. There are around 650 bingo halls currently operating. It is not known what proportion of these currently offer prize gaming (as opposed to prize bingo, which under the new Act they will be able to offer by virtue of their new bingo operating licence).

Benefits
These regulations will ensure that prize gaming retains its essential character, as intended by Parliament, as a low level gambling activity. Bingo halls will benefit from the proposed increase in the current maximum cash prize they are able to offer which will give them additional flexibility in marketing games. It is not possible to assess the likely benefits in cash terms, and no estimates of this were presented to us during the consultation.

Costs
There will be no additional costs to the bingo industry as a result of these proposals.

6. Small firms impact test

(i) Wholly automated gaming tables

While we noted the BCA's suggestion that this regulation could have an adverse impact on small businesses, it submitted no evidence or explanation to substantiate this view.

The proposed regulation will not have any disproportionate impact on smaller casinos. It is unlikely that any casino of whatever size would want to invest in wholly automated casino games which facilitated play by three of fewer players. Furthermore, it is not in the interests of casinos of any size for the distinction between this equipment and gaming machines to be undermined.

(ii) Prize gaming

A number of bingo halls offering prize gaming may well be small businesses. They are unlikely to suffer any adverse consequences from the regulations proposed here, which to a large degree replicates the provisions of the existing law.

They will benefit from the proposed increases to the maximum cash prize they are able to offer, and face no additional costs as a result of the regulations.

7. Competition assessment

(i) Wholly automated gaming tables

A simple competition assessment has been undertaken in line with BRE/OFT guidance. The Order will have no impact on competition as it will apply equally to all casino operators and equipment manufacturers. The proposal reflects existing practice in the industry and as such it will not result in any changes to the market structure and will not penalise new entrants to the market. To the extent that it may inhibit technological development – for example, the ability of manufacturers to develop real table games for one or very few people – the government believes that this restriction is necessary on a social policy basis to reinforce the distinction between this equipment and gaming machines.

(ii) Prize gaming

A simple competition assessment has been undertaken in line with BRE/OFT guidance.

The true extent of the prize gaming market (as opposed to the prize bingo market) is not known. The strict limits on prize gaming which are considered necessary from a social policy perspective have tended to mitigate against significant commercial exploitation of these provisions.

The proposals will benefit all operators equally and are unlikely to have any structural effects on the gambling industry, as what we are proposing is essentially the status quo. The relatively minor changes we are proposing will help to bring about a level playing field in respect of prize gaming limits across different types of operator for the first time. This may encourage greater competition between arcades and other prize gaming operators and bingo halls, who will be able to make the same prize gaming offer to potential customers.

8. Enforcement, sanctions and monitoring

The Gambling Commission will have overall responsibility for monitoring compliance with the requirements of the Gambling Act 2005 from 1 September 2007. The Commission will also advise and work closely with licensing authorities in the exercise of their own monitoring and enforcement functions under the Act.

The Gambling Commission will be responsible for monitoring compliance with the minimum four player positions requirement for wholly automated gaming tables. If this condition is breached the Commission have powers to suspend or revoke an operating licence and may impose a financial penalty on the licence holder.

The Gambling Commission will also be responsible for issuing conditions relating to the technical specification of wholly automated gaming tables under powers contained in Section 85(2)(b), and has consulted separately on these conditions. These conditions will be attached to casino operating licences, and the Gambling Commission will be responsible for monitoring and enforcement of these specifications.

9. Implementation and delivery plan

The Department will continue to keep the industry closely informed about these changes through its established industry, community and licensing authority networks, at all the key stages of implementation (eg when the regulations are laid and brought into effect).

10. Post-implementation review

The introduction of these measures will be monitored by licensing authorities and the Gambling Commission through the operating and premises licence application processes, and through their ongoing monitoring and enforcement functions. We will also seek feedback through three key formal mechanisms: the DCMS Industry Liaison Group; the DCMS Premises Licence Working Group; and, the LACORS Gambling Reform Policy Forum. These fora comprise key representatives from industry and licensing authorities.

11. Summary and recommendation

(i) Wholly automated gaming tables

Option	Total benefit	Total cost
1 No limit	Option supported by BCA	No cash costs Significant risk that regulatory justification for exemption would be undermined
2 Min player position >4	Would help reinforce difference to gaming machines and regulatory justification for exemption	No cash costs Could be unnecessarily high, and may require operators to invest in more (or fewer) terminals than they might otherwise
3 Min player positions <4	May differentiate between wholly automated tables and gaming machines.	No cash costs Reduces parallel with real gaming tables, increasing risk that regulatory justification for exemption would be undermined
4 Min of 4 player positions	Strikes appropriate balance between Option 2 and 3 above	No cash costs

(ii) Prize gaming

Option	Total benefit	Total cost
1 No limits	Would create potentially significant increase in unlimited commercial gaming	Likely to have significant though unquantifiable social consequences.
2 Large increase	Could enable bingo halls to develop new games and so diversify	Runs counter to Parliamentary intentions behind the

	their offer – though no firm figures presented.	prize gaming provisions. May have unquantifiable social consequences.
3 Retain existing limits	Would retain status quo and mitigate against any adverse social consequences.	Would mean a reduction in level of limits compared to Category C gaming machines.
4 Retain existing limits with modest increases	Would retain strict limits which have worked well under existing legislation in mitigating against adverse social consequences. Allows modest increases to increase competition between prize gaming providers, and potentially increase the attractiveness of prize gaming to players.	No cash costs.

12. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed……. Date……..

Rt Hon Richard Caborn MP, Minister for Sport

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