EXPLANATORY MEMORANDUM TO

THE GAMBLING ACT 2005 (COMMENCEMENT NO. 6 AND TRANSITIONAL PROVISIONS) (AMENDMENT) ORDER 2026

2026 No. 334

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Baroness Twycross, Parliamentary Under Secretary of State 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 Helena Ross at the Department for Culture, Media and Sport can be contacted with any queries regarding the instrument: helena.ross@dcms.gov.uk or 07880 169170.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The amendment made by the Order makes clear that the gaming machine entitlements described in sub-paragraph (6) of paragraph 65 of Schedule 4 to the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006/3272 (C. 119) (as amended) are alternatives rather than a series of options that can be taken together.

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 England and Wales and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. Policy context

What is being done and why?

5.1 The Order is concerned with casinos that were already operating when the Gambling Act 2005 ("the 2005 Act") came into force, but now make facilities for gambling available under that Act by virtue of a converted casino premises licence ("converted casinos").

5.2 Paragraph 65(3) of Schedule 4 to the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272, "the 2006 Order") applies Part 8 of the 2005 Act to converted casino premises licences, subject to the modifications in that provision.

5.3 Sub-paragraph (6) of paragraph 65 of Schedule 4 to the 2006 Order modifies section 172 of the 2005 Act so as to make alternative provision with regard to the number and category of gaming machines authorised by a converted casino premises licence to be made available for use. Under the 2006 Order as originally drafted, operators could choose to make either an unlimited number of gaming machines available for use provided all these were of Category C or D, or up to 20 gaming machines available where all machines were of Category B, C or D and at least one such machine was Category B ("the original entitlements") [1].

5.4 The 2006 Order was amended by the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) Order 2025 (S.I. 2025/734, "the 2025 Order"). As regards sub-paragraph (6), the intention in the 2025 Order was to introduce a third choice for operators, described in new sub-paragraphs (6A) to (6F). By sub-paragraph (6G), once an operator makes gaming machines available in accordance with this new choice, the converted casino premises licence ceases to authorise the operator to make use of the original entitlements.

5.5 In its 36th Report of Session 2024-26[2], the Joint Committee on Statutory Instruments reported the 2025 Order for defective drafting. The Committee found that the way the 2025 Order amended paragraph 65(6) of Schedule 4 to the 2006 Order had the effect of allowing the holder of a converted casino premises licence to exercise both original entitlements, rather than leaving them as alternatives.

5.6 This Order amends the 2006 Order so the three possible entitlements to make gaming machines available to the holder of a converted casino premises licence are presented clearly as alternatives, rather than options that may in some cases be taken together.

What was the previous policy, how is this different?

5.7 The policy has not changed. By correcting the error in the 2025 Order described above, this Order gives effect to the original policy intention.

6. Legislative and legal context

How has the law changed?

6.1 This Order amends the 2006 Order so as to correct an error introduced as a result of amendments made by the 2025 Order.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary change.

[1] The categories of gaming machine for the purposes of the 2005 Act are defined in S.I. 2007/2158, amended by S.I. 2009/1502, 2011/1711, 2014/45 and 2018/1402.

[2] https://committees.parliament.uk/publications/49888/documents/267723/default/

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department for Culture, Media and Sport carried out a full public consultation in relation to casino reform proposals from July to October 2023[3]. Rather than reflecting any change in policy, the Order corrects a drafting defect and so a further consultation was not considered necessary.

7.2 The Gambling Commission has confirmed to the Department that from the regulatory information obtained from land-based casino operators, since the 2025 Order came into force, no converted casino has made Category C or D gaming machines available, and no converted casino has tried to make more than 80 Category B gaming machines available for use at the same time.

8. Applicable guidance

8.1 The Gambling Commission has published guidance[4] as to the effect of recent casino reforms (including the 2025 Order) on the regulatory framework for casino operators and licensing authorities. This guidance was last updated on 22nd September 2025.

Part Two: Impact and the Better Regulation Framework

9. Impact assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is not expected to have any effect in practice on the small number of businesses to which it is relevant, or on the licensing authorities in whose areas those businesses are situated.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The 2025 Order includes a clause which requires Ministers to review its regulatory provisions every 5 years. The first review must be carried out by 22nd July 2030. The amendment made by this Order will be considered as part of each such review.

[3] https://www.gov.uk/government/consultations/measures-relating-to-the-land-based-gambling-sector/measures-relating-to-the-land-based-gambling-sector
[4] https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/non-remote-casino-sector-legislative-changes-guidance

Part Three: Statements and matters of particular interest to Parliament

11. Matters of special interest to Parliament

11.1 The amendment made by the Order corrects a defect made in the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) Order 2025 (S.I. 2025/734) which was identified by the Joint Committee on Statutory Instruments in its 36th Report of Session 2024-26[5].

12. European Convention on Human Rights

12.1 Baroness Twycross, Parliamentary Under Secretary of State at the Department for Culture, Media and Sport, has made the following statement regarding Human Rights:

"In my view, the provisions of the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) Order 2026 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").

[5] https://committees.parliament.uk/publications/49888/documents/267723/default/