EXPLANATORY MEMORANDUM TO

THE GAMBLING ACT 2005 (GAMING TABLES IN CASINOS) (DEFINITIONS) (AMENDMENT) REGULATIONS 2025

2025 No. 503

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.

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 Kieran Sull at the Department for Culture, Media and Sport (telephone: 07517 988288 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 amends the definition of a "gaming table" for the purposes of section 172(3) to (5) of the Gambling Act 2005 ("the 2005 Act"), so that only gaming tables operated or controlled by casino staff will qualify for the purposes of attracting the gaming machine allowance available to certain types of casino premises licences under the 2005 Act.

4.2 This instrument achieves this by amending the Gambling Act 2005 (Gaming Tables in Casinos) (Definitions) Regulations 2009 (S.I. 2009/1970) ("the 2009 Regulations").

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales and Scotland.

4.4 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 2005 Act framework ensures that casinos licensed under the 2005 Act cannot offer gaming machines unless that offer is balanced by a proportionate number of

gaming tables. This ensures that customers can choose whether to play on gaming tables, which are more social in nature, as opposed to gaming machines and other automated gaming equipment, where there is less potential for human interaction and which tend to be more repetitive in nature.

5.2 The 2009 Regulations are one means by which this objective is pursued, providing (among other things) that a wholly automated gaming table does not count towards the number of gaming machines which a casino licensed under the 2005 Act can offer. Since the 2009 Regulations were introduced, however, new gaming products have been developed for casino gaming, including games in which the player presses a switch or button, or pulls a plunger or lever, e.g. to release a ball or set of balls.

5.3 Under section 235(2)(h) of the 2005 Act, these products do not count as gaming machines, but neither do they provide any of the benefits of a casino gaming table in contributing to a balanced mix or affording opportunities for social interaction.

5.4 For this reason, the Government is bringing forward these Regulations to amend the 2009 Regulations, to ensure that these products do not count as a gaming table for the purposes of section 172(3) to (5) of the 2005 Act (gaming machine allowances in 2005 Act casinos).

5.5 As such, the purpose of these Regulations is to make clear that only if a table is controlled or operated by casino staff can it qualify as a gaming table for the purposes of calculating gaming machine allowances.

What was the previous policy, how is this different?

5.6 The previous policy only excluded wholly automated gaming tables from the description of a gaming table for the purposes of section 172(3) to (5) of the 2005 Act. This policy was made on the basis that gaming tables should remain core to the casino's offer and that it would be undesirable for casinos to offer only or predominantly gaming machines and other automated equipment – in effect creating a wholly automated casino environment.

5.7 While the policy rationale remains the same, the types of products developed for casinos has changed and the legislation has not kept pace. A change is therefore required to ensure that only gaming tables which are controlled or operated by staff can count towards the machine to table ratio, as these provide a genuine social interaction for customers.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2005 Act established three new categories of casino: Regional (not introduced), Large and Small casinos. Section 172(3) to (5) prescribes the number and categories of gaming machines that could be made available in each category. Gaming machine entitlements for these licences are fixed as a ratio of gaming machines to gaming tables used in the casino, subject to an overall maximum.

6.2 A Large casino licence allows the holder to make available gaming machines of Categories B to D[1] at a ratio of not more than five machines to every gaming table, up to a maximum of 150 machines. A Small casino licence can offer the same categories

[1] See the Categories of Gaming Machine Regulations 2007/2158, as amended by S.I. 2009/1502, 2014/45 and 2018/1402.

of machines at a ratio of no more than two machines to every gaming table, up to a maximum of 80 machines.

6.3 The 2009 Regulations defined a "gaming table" for the purposes of section 172(3) to (5) of the 2005 Act as not including a 'wholly automated gambling table', defined as: "an apparatus that is designed or adapted to enable individuals to play a real game of chance where— (a) the design or adaptation is such that the apparatus is not required to be controlled or operated by an individual employed or concerned in arranging for others to play the game; and (b) the apparatus is not designed or adapted for use in connection with a game the arrangements for which are controlled or operated by an individual."

6.4 An example of a wholly automated gaming table is an automatic roulette wheel into which the ball is inserted not by a human dealer but at regular intervals by the mechanism itself, and bets are placed at touch screen terminals. As above, such a table does not currently count towards the gaming machine allowance for the purposes of section 172(3) to (5) of the 2005 Act.

6.5 The 2009 Regulations also provided that to count for the purposes of section 172(3) to (5), a gaming table must either be being used to play a casino game or be available to be used for that purpose. A 'casino game' is defined in section 7(2) of the 2005 Act as "a game of chance which is not equal chance gaming"[2].

6.6 These Regulations amend the 2009 Regulations to change the way that "gaming table" is defined for the purposes of section 172(3) to (5) of the 2005 Act, so that a gaming table can only count for these purposes if it is operated or controlled by casino staff.

Why was this approach taken to change the law?

6.7 The definition of a "gaming table" for the purposes of section 172(3) to (5) of the 2005 Act is set out in the 2009 Regulations. Therefore, any amendments to the definition can only be achieved by amending the 2009 Regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation on the package of measures for land-based casinos took place from July to October 2023 under the previous government[3]. The particular issue of the definition of gaming tables was consulted on and a specific question asked in the consultation. The relevant Chapter of the consultation received 41 responses from a variety of stakeholders, including gambling operators and trade bodies, local government organisations, campaign groups and academics. There were some responses to the specific question on the definition of a gaming table. While most were 'no comment', one trade association and one casino operator agreed with the new definition.

7.2 The Government's response stated that the 2009 Regulations will be amended so that gaming tables where staff are not present and the player operates or controls the gaming apparatus are also excluded for the purposes of calculating the machine to table ratio. The response outlined that this was to ensure that gaming products, such as

[2] Section 8 of the 2005 Act says: "For the purposes of this Act, gaming is equal chance gaming if (a) it does not involve playing or staking against a bank, and (b) the chances are equally favourable to all participants."
[3] Government consultation and response: Measures relating to the land-based gambling sector (https://www.gov.uk/government/consultations/measures-relating-to-the-land-based-gambling-sector)

games in which the player presses a switch or button, or pulls a plunger or lever, to release a ball or set of balls, cannot count towards the machine to table ratio.

7.3 The same amendment to the 2009 Regulations was also consulted on by the previous Government among proposals for changes to gaming machines and responsibility measures in October 2017[4]. In total, 7,361 online survey responses were received, with a further 243 additional submissions of supplementary information. Responses were received from a variety of stakeholders, including the gambling industry, trade associations, local authorities and charities. No objections were received and the previous Government's response also confirmed the intention to make this amendment.

8. Applicable Guidance

8.1 No additional guidance will be issued to the industry.

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 will only impact the six casinos that are currently operating and open under a 2005 Act licence and we have received anecdotal evidence that there are a maximum of two affected machines currently, such as pinball roulette, in these casinos. This is a very small number relative to total machine and table numbers and therefore is likely to have a minimal impact on casinos and their customers.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument will only affect six casinos and is unlikely to have any material impact on how they operate.

9.3 The impacted casinos are all defined as 'large' companies according to HMRC Corporation Tax thresholds as they had annual profits above £1.5m in the 2022/23 financial year. Therefore, this measure is not expected to impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument places a small, additional regulatory burden on casino operators that we do not expect to create any additional work for the Gambling Commission or licensing authorities.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Government keeps the casino sector under review, and will take account of any advice received by the Gambling Commission. The Gambling Commission will monitor the effect of these changes as part of its regular monitoring of the casino sector.

10.2 In line with the requirements of sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015, Baroness Twycross, Parliamentary Under Secretary of

[4] Government consultation and response: Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures.(https://www.gov.uk/government/consultations/consultation-on-proposals-for-changes-to-gaming-machines-and-social-responsibility-measures#full-publication-update-history)

State at the Department for Culture, Media and Sport, has made the following statement:

"Having had regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 and Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that to make provision for a statutory review in this instrument would be disproportionate taking into account the economic impact of the regulatory provision and would, therefore, be inappropriate."

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 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 (Gaming Tables in Casinos) (Definitions) (Amendment) Regulations 2025 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").