**EXPLANATORY MEMORANDUM TO**

**THE GAMBLING ACT 2005 (INCIDENTAL LOTTERIES) REGULATIONS 2016**

**2016 No. 239**

## 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 Her Majesty.

## 2. Purpose of the instrument

2.1 These regulations prescribe the maximum sums that the promoters may deduct from the proceeds of an incidental lottery in respect of the cost of prizes and the costs incurred in organising the lottery. A lottery is an incidental lottery if it is held incidental to an event, and satisfies the conditions in Part 1 of Schedule 11 to the Gambling Act 2005 ("the Act").

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

***Other matters of interest to the House of Commons***

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage

## 4. Legislative context

4.1 The Gambling Act 2005 (Incidental Non-Commercial Lotteries) Regulations 2007 (S.I. 2007/2040, "the 2007 Regulations") prescribed maximum sums for the purposes of paragraphs 3 and 4 of Part 1 of Schedule 11 to the Act in respect of incidental non-commercial lotteries.

4.2 Following amendments made by the Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124, "the 2016 Order") to Part 1 of Schedule 11, an exempt incidental lottery no longer needs to be incidental to a non-commercial event to be exempt.

4.3 Paragraph 3 of Part 1 of Schedule 11 to the Act, as amended by the 2016 Order, gives the Secretary of State power to prescribe by regulations the maximum sum that the promoters of an incidental lottery may deduct from the proceeds of the lottery in respect of the costs of the prizes.

4.4 Paragraph 4, as amended by the 2016 Order, gives the Secretary of State power to prescribe by regulations the maximum sum that the promoters of an incidental lottery may deduct from the proceeds of the lottery in respect of costs incurred in organising the lottery.

4.5 As a result of the amendments made by the 2016 Order, these regulations revoke and replace the 2007 Regulations, prescribing the same maximum amounts for incidental lotteries as applied for incidental non-commercial lotteries: for the cost of the prizes

awarded in the incidental lottery, no more then £500; for costs incurred in organising the lottery, no more than £100.

## 5. Extent and territorial application

5.1 This instrument extends to the UK.

5.2 The territorial application of this instrument is applies to England, Scotland and Wales.

## 6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

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

7.1 The 2016 Order amends the exemption for incidental lotteries in Part 1 of Schedule 11 to the Act, so that it is no longer limited to lotteries that are incidental to a non-commercial event.

7.2 The 2007 Regulations prescribe the maximum amounts that promoters of an incidental non-commercial lottery can deduct for the cost of prizes and costs of organising the lottery.

7.3 As set out in paragraph 3.6 of the consultation to the 2016 Order, *Consultation on Incidental Non-Commercial, Private Society, Work and Residents' Lotteries: Proposals for Lifting Restrictions*, the proposal was that the existing costs limits for incidental non-commercial lotteries would be maintained in respect of the extended category of incidental lotteries. The limits ensure the lotteries remain small in scale and maximise the profits which are required to be given to charity or other non-commercial causes. A copy of that consultation is available at: https://www.gov.uk/government/consultations/consultation-on-incidental-non-commercial-private-society-work-and-residents-lotteries.

7.4 These regulations give effect to that intention, revoking the 2007 Regulations and prescribing the same maximum amounts as applied under those Regulations to incidental lotteries.

***Consolidation***

7.5 Not applicable.

## 8. Consultation outcome

8.1 No consultation has been carried out in relation to this instrument. However, as above, the proposal to maintain the existing limits on the costs that can be deducted from the proceeds of an incidental lottery was consulted on in relation to the 2016 Order. Respondents to that consultation supported maintaining the existing deduction limits.

## 9. Guidance

9.1 Existing Gambling Commission guidance in relation to incidental non-commercial lotteries will be revised for incidental lotteries and published on its website.

## 10. Impact

10.1 A full impact assessment has not been prepared for this instrument as no significant impact is foreseen on the business, charities or voluntary sectors.

10.2 There is no impact on the public sector.

## 11. Regulating small business

11.1 The Regulations will only apply to activities undertaken by small businesses insofar as a small business promotes an incidental lottery.

11.2 These Regulations ensure that small businesses are entitled to deductions in respect of the costs of prizes and costs of organising the lottery.

## 12. Monitoring and review

12.1 The Gambling Commission monitors compliance with the Gambling Act 2005.

## 13. Contact

13.1 Caity Marsh at the Department for Culture, Media and Sport (telephone: 020 7211 2343 or email caity.marsh@culture.gov.uk) can answer any queries regarding the instrument.