EXPLANATORY MEMORANDUM TO THE

GAMING ACT 1968 (VARIATION OF FEES) (ENGLAND AND WALES) ORDER 2005 No. 566

GAMING ACT 1968 (VARIATION OF FEES) ORDER 2005 2005 No. 567

LOTTERIES (GAMING BOARD FEES) ORDER 2005 2005 No. 568

GAMING (BINGO) ACT 1985 (FEES) ORDER 2005 2005 No. 570

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.

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

2. Description

Gaming Act 1968 (Variation of Fees) (England and Wales) Order 2005 No. 566

2.1 The Gaming Act 1968 makes provision for the licensing of gaming establishments. Such a licence may be issued in respect of either a casino or a bingo club. References below to casino and bingo licences should be construed accordingly. This Order increases the fees payable for the grant, renewal or transfer of licences under the Gaming Act 1968. The amounts of the fees are contained in section 48 of the 1968 Act and therefore an Order is necessary to amend the amounts specified in that section.

Gaming Act 1968 (Variation of Fees) Order 2005 No. 567

2.2 Before a casino or bingo licence can be issued an applicant must obtain a certificate from the Gaming Board for Great Britain, ("the Gaming Board") consenting to the making of an application for such a licence. This Order increases the fees payable for such certificates of consent.

Lotteries (Gaming Board Fees) Order 2005 No. 568

2.3 The Lotteries and Amusements Act 1976 makes provision for societies and local authority schemes to be registered by the Gaming Board in connection with the promotion of lotteries by them. Fees are payable to the Gaming Board in connection with the registration of a society or a local authority scheme. The 1976 Act also provides for fees to be payable to the Gaming Board for inspecting returns made by societies and local authorities in respect of lotteries promoted by them; and for the payment of fees in respect of an application to be certified as a lottery manager. This Order increases in each case the amount of the fee payable.

2.4 The Gaming (Bingo) Act 1985 enables the Gaming Board for Great Britain ("the Gaming Board") to issue certificates of approval in respect of games of multiple bingo. This is where a game of bingo is played jointly on different bingo premises. This Order increases the fees payable to the Gaming Board for the grant and continuation of such certificates.

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

3.1 The Gaming Board and the Department for Culture Media and Sport ("the Department") review gaming and lottery fees every year. Gaming registration fees have to meet the costs of licensing and administration work required for regulating the gaming industry. Regulation is undertaken mostly by the Gaming Board and the Magistrates Court, but also to some extent by the police and the Department.

3.2 These Orders increase the fees payable in respect of section 27 certificates (section 27 of the Gaming Act 1968; grant and renewal certificates for the sale supply and maintenance of gaming machines); casino and bingo fees under the Gaming Act 1968; lottery fees under the Lottery and Amusements Act 1976; and multiple bingo under the Gaming (Bingo) Act 1985. Section 19 certificates (section 19 of the Gaming Act 1968; the Board's certificate of approval for casino employees and bingo club managers) and club registration fees are not being increased this year.

3.3 The Orders will enable the costs of administration and regulation of the various sectors of the gaming industry and lotteries to be met by income from fees. The Board estimates this cost to be in the sum of £5.53 million during the financial year 2005/06.

3.4 The National Audit Office ("NAO") published a study of the Gaming Board in June 2000. Its conclusions were endorsed by the Public Accounts Committee of the House of Commons ("PAC"), which published a report on the Board on 16 November 2000. The PAC called for the elimination of cross subsidies among various sectors of the gaming industry and lotteries. It said that the different statutory services must be treated separately and fees for each must be set to recover its estimated full cost. The fees for 2005/06 have been calculated in line with the NAO and PAC recommendations.

3.5 An increase in fees is needed to ensure that the anticipated fees for each sector of the industry will meet the expected cost of administration and regulation of those sectors during the financial year 2005/06. In respect of lotteries an increase of between 2.8% and 3.2% is needed; similarly, an increase of 2.8% is needed to meet the cost of administering and regulating section 27 gaming machine certificates; an increase of 4.8% is needed for the casino sector; and an increase of 8% is needed for the bingo sector (excluding multiple bingo); an increase of 4% is needed for multiple bingo. As the income from fees can only ever be estimated, these fees have been set with a small surplus margin, in the event that the fees fall below the expected level.

The total surplus in these five sectors will be £141,564, which amounts to a 2.6% margin over the estimated total costs of £5.53 million.

4. Legislative Background

Gaming Act 1968 (Variation of Fees) (England and Wales) Order 2005 No. 566

4.1 This Order is necessary to increase the fees payable in respect of the grant, renewal or transfer of a licence issued under the Gaming Act 1968. The amounts of the relevant fees are specified in section 48(3)(a) to (c) and (4) of the 1968 Act. The fees specified in subsection (3) relate to casinos and those in subsection (4) relate to bingo clubs. Section 48(5) confers power on the Secretary of State to amend the sums referred to in subsection (3) or (4) of that section. The fees amended by this Order were last amended by The Gaming (Variation of Fees) (England and Wales) Order 2003 (S.I. 2003/508), which is revoked by this Order.

4.2 The fees amended by this Order will not apply to Scotland. Power to make an order as regards Scotland under section 48(5) of the 1968 Act in relation to sections 48(3)(a) to (c) and 48(4) is exercisable by the Scottish Ministers instead of by the Minister of the Crown by virtue of article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

Gaming Act 1968 (Variation of Fees) Order 2005 No. 567

4.3 This Order is necessary to increase the fees payable in respect of the consent certificates for making an application for the grant or transfer of a licence issued under the Gaming Act 1968. The amounts of the relevant fees are specified in section 48(3)(ca) to (cb) and (4A) of the 1968 Act. The fees specified in subsection (3) relate to casinos and those in subsection (4A) relate to bingo clubs. Section 48(5) confers power on the Secretary of State to amend the sums referred to in subsection (3) or (4A) of that section. The fees amended by this Order were last amended by The Gaming (Variation of Fees) (England and Wales and Scotland) Order 2003 (S.I. 2003/509), which is revoked by this Order.

Lotteries (Gaming Board Fees) Order 2005 No. 568

4.4 Section 5 of the Lotteries and Amusements Act 1976 specifies the circumstances in which a lottery promoted by a society will be lawful. Where the total value of tickets in a lottery is more than £20,000 the society must be registered with the Gaming Board under Schedule 1A to the 1976 Act. Paragraph 2 of Schedule 1A requires a fee to be paid by the society on making an application to the Board for registration. Paragraph 6 of Schedule 1A provides for the payment of further fees by a registered society at prescribed intervals and in connection with each lottery it promotes. Where a registered society promotes a lottery it is required under paragraph 9 of Schedule 1A to send a return to the Gaming Board. A member of the public may apply to inspect such a return on payment of a fee. In each case the fee is prescribed in

an order made by the Secretary of State under section 18(1)(e) of the 1976 Act.

4.5 Section 6 of the Lotteries and Amusements Act 1976 specifies the circumstances in which a lottery promoted by a local authority will be lawful. One of the circumstances is that the lottery is promoted in accordance with a scheme registered with the Gaming Board. A similar system of fee payments exists in relation to the registration of local authority schemes under Schedule 2 as exists in relation to the registration of societies under Schedule 1A. The power of the Secretary of State under section 18(1)(e) to prescribe fees also applies to fees payable in connection with the registration of a local authority scheme and lotteries promoted by a local authority.

4.6 Section 9A of the 1976 Act prohibits any person from managing a society's lottery or a local authority lottery unless certain circumstances apply. One of the circumstances is that the person is certified as a lottery manager by the Gaming Board under Schedule 2A to the 1976 Act. Paragraph 1 of Schedule 2A provides for a fee to be payable in respect of an application for a person to be certified as a lottery manager. Section 18(1)(eee) of the 1976 Act enables the Secretary of State to vary that fee by order.

4.7 This Order makes provision with respect to the fees referred to in paragraphs 4.4 to 4.6 above. These fees were previously prescribed by virtue of The Lotteries (Gaming Board Fees) Order 2004 (S.I. 2004/532), which is revoked by this Order.

The Gaming (Bingo) Act 1985 (Fees) Order 2005 No. 570

4.8 The Gaming (Bingo) Act 1985 makes provision for games of multiple bingo. These are games of bingo played jointly on different bingo club premises. It is an offence under section 4 of the 1985 Act to act as the organiser of a game of multiple bingo unless the person doing so holds a certificate of approval issued by the Gaming Board. The Schedule to the 1985 Act makes provision with respect to the issue of certificates of approval. Paragraph 5 of the Schedule enables the Secretary of State by order to require the payment to the Board of an initial fee on issue, and further periodical fees, in respect of a certificate of approval. The Gaming (Bingo) Act (Fees) Order 1986 (S.I. 1986/833) makes provision for the payment of such fees and specifies the amounts payable. This Order amends the 1986 Order to increase the amounts so specified.

5. Extent

The Gaming Act 1968 (Variation of Fees) (England and Wales) Order 2005 No. 566.

5.1 This instrument applies to England and Wales.

The Gaming Act 1968 (Variation of Fees) Order 2005 No. 567.
The Lotteries (Gaming Board Fees) Order 2005 No. 568.
The Gaming (Bingo) Act 1985 (Fees) Order 2005 No. 570.

5.2 These instruments apply to Great Britain.

6. European Convention on Human Rights

The Lord McIntosh of Haringey has made the following statement regarding Human Rights:

In my view the provisions of, the Gaming Act 1968 (Variation of Fees) (England and Wales) Order 2005; the Gaming Act 1968 (Variation of Fees) Order 2005; and the Lotteries (Gaming Board Fees) Order 2005 are compatible with the Convention Rights.

A Human Rights statement is not applicable in respect of the Gaming (Bingo) Act 1985 (Fees) Order 2005.

7. Policy Background

7.1 The policy objective of the relevant sections of the Parent Acts, from which the powers are derived to make these Orders, is to fund the cost of administering and regulating various sectors of the gaming industry. These funds are raised through the charging of fees to those persons who wish to provide gaming activities, or who wish to run a lottery.

7.2 The Gaming Board and the Department review gaming and lottery fees every year. The fees have been calculated to ensure that the anticipated issue and renewal fees will meet the expected cost of administration by the Gaming Board for each sector during the financial year 2005/06.

7.3 In the past it has proved difficult to calculate the precise level of licensing activity that will take place, therefore a small surplus as described in paragraph 3.5, is not unreasonable to ensure a safety margin to protect the Department's Vote position if fee receipts turn out lower than expected.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 We do not expect these fee rises to place an unreasonable burden on small business, and they meet the costs of administering and regulating these sectors. The fees are a very small proportion of the costs in setting up or entry to the business, or ongoing costs. The fees are at a fixed rate and are exactly the same for all sectors of the industry applying for the same type of licences or registrations. All the new fees will be effective from 1 April 2005.

9. Contact

Peter Doogan at the Department for Culture Media and Sport, Tel: 020 7211 6486 can answer any queries regarding this instrument.

Department for Culture, Media & Sport
March 2005

REGULATORY IMPACT ASSESSMENT

INCREASE IN GAMING AND LOTTERIES FEES 2005

The Gaming Act (Variation of Fees) (England and Wales) Order 2005 No. 566

Gaming Act 1968 (variations of Fees) Order 2005 No. 567

The Lotteries (Gaming Board Fees) Order 2005 No. 568

The Gaming (Bingo) Act 1985 (fees) Order No. 2005 570

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1. Purpose and intended effect

The objective

1.1 Gaming and lotteries fees are reviewed annually to ensure the costs in administering the controls on gaming and lotteries are met.

The background

1.2 The four Orders are made under the Gaming Act 1968, the Lotteries and Amusements Act 1976 and the Gaming (Bingo) Act 1985, respectively as listed above, and increase the fees for certain gaming licences and lotteries fees issued under the Acts. These Orders amend the fees for:

1.3

- Casino certificate and licence fees (Grant, renewal and transfer of casino certificates of consent and licences);
- Bingo certificate and licence fees (Grant, renewal and transfer of bingo certificates of consent and licences);
- Section 27 certificates (Grant and renewal of certificates for the sale, supply and maintenance of gaming machines);
- The National Bingo Game licence fee (Grant and renewal);
- Society and local authority lottery registration fees;, lottery promotion fees and registrations of lottery managers.

1.4 The Gaming Act 1968 (Variation of Fees) (England and Wales) Order 2005 extends to England and Wales. The other three Orders extend to Great Britain.

Risk assessment

1.5 The Government's aim in setting these fees is to meet the cost of administering the licensing process. The licensing process enables the Gaming Board for Great Britain, the Courts and others to ensure that those involved in organising gaming are fit and proper to do so, and that gambling is kept free from criminal infiltration and is run fairly and in accordance with the law. If the fees are too high, the Government will be needlessly reducing the profitability of the gaming

and lottery sectors. If the fees are too low, the costs of administering the licensing regime would not be covered by fees received and the costs of regulation would need to be subsidised out of taxpayers' money. Either would be contrary to Treasury guidance and to the recommendations of the National Audit Office, which produced a report on the Gaming Board for Great Britain in 2000.[1] The report may be viewed on the NAO web site at www.nao.org.uk.

1.6 Table 1 below shows the expected income from fees (based on current fee levels) and the anticipated cost of regulation in 2005/6.

Table 1	Income with no change in fees (£)	Costs of regulation 2005/06 (£)
Section 19	945,000	857,296
Section 27	633,673	643,188
Casino sector	1,720,030	1,802,866
Bingo sector	1,185,675	1,281,145
National Bingo Game	106,666	136,750
Lotteries fees	467,676	483,868
Registered clubs	264,420	185,863
Total	5,323,140	5,390,978

As can be seen, maintaining fees for 2005/2006 at the same level as 2004/2005 would produce an overall deficit of nearly £68,000 of income against regulation.

Options

1.7 Two options have been identified.

Option 1 – an increase of 4% on casino and bingo certificate and licence fees.

1.8 An increase of 4% on casino and bingo certificate and licence fees in order for the bingo and casino sections to break even combined. This would generate a surplus for the year of £79,000. However, the casino and bingo sections would not break even purely on the basis of the 4% increase in fees but would be cross-subsidised from section 19 fees (i.e. certificates of approval for bingo and casino employees). Since NAO does not approve of

[1] The NAO's conclusions, endorsed by the House of Commons Public Accounts Committee, was that there should be a more reliable basis for determining the costs of licensing and police authorities and achieving their full recovery, and that cross subsidies between various sectors of the gaming industry and lotteries should be eliminated.

cross subsidy, we have been eliminating this practice in recent years.

Option 2 –an increase of 5% on bingo and 8% on casino certificate and licence fees as shown in table 2 below.

1.9 An increase of 5% on casino and 8% on bingo certificate and licence fees. This would enable the casino and bingo sections to break even without support from section 19 fees. This option would produce a surplus of £141,000. This option will meet the objectives and ensure that costs of regulation are fully met by licence and registration fees.

Both Options

1.10 Both options would require an increase of just under 3% for Section 27 (machine suppliers) and lotteries fees and 4% for the National Bingo Game licence fees. There will be no increase in Section 19 (employees certificate of approval) or club registration fees.

New Fees and forecast 2005/2006 income

1.11 Ministers have approved option 2. Table 2 sets out the increase from the current 2004/2005 to the new 2005/2006 fees.

Table 2	**Old Fee (£)**	**New fee (£)**	**Increase (%)**
Casino			
Grant	29,640	31,063	4.80
Renewal	8,150	8,541	4.80
Transfer	7,855	8,232	4.80
Consent Application	8,200	8,594	4.80
Consent Transfer	5,125	5,371	4.80
Bingo			
Grant	3,915	4,232	8.10
Renewal	1,495	1,616	8.09
Transfer	1,595	1,724	8.09
Consent Application	7,725	8,351	8.10
Consent Transfer	5,150	5,567	8.10
Section 27 (Machine suppliers)			
New	6,425	6,605	2.80
Renewals	4,395	4,518	2.80
National Bingo Game			

New	167,000	173,680	4.00
Renew (Fee covers three years)	160,000	166,400	4.00
Lotteries			
>£200k	454	468	3.08
>£50k	303	312	2.97
>£10k	104	107	2.88
<£10k	104	107	2.88
Registration Fee (Society Normal)	4,810	4,954	2.99
Registration Fee (LA normal)	4,810	4,954	2.99
Renewal Fee (LA and Society)	188	194	3.19
Lottery Manager	14,850	15,295	3.00

1.12 Table 3 shows the income that will be generated during 2005/2006 using the new fees. The new fees will create a surplus of £141,500.

Table 3	Income from fees £	Costs of regulation 2005/06 £
Section 19	945,000	857,296
Section 27	649,888	643,188
Casino sector	1,802,568	1,802,866
Bingo sector	1,281,647	1,281,145
National Bingo Game	107,426	136,750
Lotteries fees	481,593	483,868
Registered clubs	264,420	185,863
Total	5,532,542	5,390,978

Benefits

Option 1 -an increase of 4% on casino and bingo certificate and licence fees and an approximate increase of 3% across the lottery sector.

1.13 Increasing the fees in this manner will cover the costs of certificate and licence administration. It would, however, involve cross-subsidising of the bingo and casino sectors by the section 19 fees.

Option 2 -an increase of 5% on bingo and 8% on casino certificate and licence fees and an approximate increase of 3% across the lottery sector.

1.14 Increasing the fees will ensure that the costs of the regulation of gambling, i.e. those of the Gaming Board for Great Britain, the courts and the police, will be met by the industry. The fees requiring an increase have been identified as being in those sectors where current fee levels would result in projected deficits, and the increases meet Treasury rules.

Business sectors affected

1.15 Casino and bingo clubs operators, gaming machines suppliers and vendors, lotteries and lotteries managers.

Costs

Compliance costs

1.16 The compliance cost to business is the fee itself and administration costs in applying for the certificate or registration. The fees are calculated on the basis that each of these sectors will meet its own cost and reflect the anticipated cost of regulation during the financial year 2005/06.

1.17 The increases required to meet the regulatory costs are shown in Table 2.

Option 1 -an increase of 4% on both casino and bingo certificate and licence fees.
and an approximate increase of 3% across the lottery sector.

1.18 The Gaming Board estimates that fees paid by the industry would be £5,323,140. This will be sufficient to cover the costs of regulation and provide a surplus of £79,419. It should be noted that this would be contrary to the PAC ruling on cross-subsidising.

Option 2 -an increase of 5% on bingo and 8% on casino certificate and licence fees and an approximate increase of 3% across the lottery sector.

1.19 The Gaming Board estimates that fees paid by the industry would be £5,532,542. This will cover the full costs of regulation and lead to a surplus of £141,564 as shown in Table 3. The fees are rounded to the nearest £1 for administrative convenience. The aim is that receipts match costs as closely as possible based on the estimated demand for licences.

Other costs

1.20 There are small costs associated in preparing the Orders and laying them before Parliament and informing the industry about the changes.

Impact on small businesses

1.21 We do not expect these fees rises to place an unreasonable burden on small business and they meet the costs of regulating these sectors.

Industry and lotteries

1.22 These Orders are unlikely to have a negative competitive impact on those who supply or maintain gaming machines or lotteries. The fees are a very small proportion of the costs in setting up or entry to the business, or ongoing costs.

1.23 The fees are at a fixed rate and are exactly the same for all sectors of the industry applying for the same types of licences or registrations. All the new fees will be effective from 1 April 2005.

Enforcement, Monitoring and Review

1.24 Operators and employees must pay these fees before they are granted an appropriate licence or certificate. The Department for Culture, Media and Sport writes to the main industry representatives about the fees.

1.25 The Gaming Board of Great Britain reviews the fees annually to ensure that the fees cover the costs of regulating the gambling industry.

Consultation

1.26 The Gaming Board for Great Britain has been consulted.

Summary

1.27 It is recommended that option 2 is pursued. This will deliver the objectives set out in paragraph 1.1, it will cover the costs of regulation in 2005/06 and ensure that regulatory costs are met in full by the industry. This is therefore the option the Government prefers.

Ministerial Declaration:

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

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Rt Hon Lord McIntosh
Minister for the Media and Heritage
Department for Culture Media and Sport

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