EXPLANATORY MEMORANDUM TO

THE MACHINE GAMES DUTY (TYPES OF MACHINE) ORDER 2014

2014 No. 47

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs on behalf of the Treasury and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The instrument makes changes to the stake and prize values that determine which machines qualify for machine games duty at the lower rate of 5 per cent.

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

3.1 None.

4. Legislative Context

4.1 Machine games duty (MGD) was introduced in February 2013 by Schedule 24 to the Finance Act 2012 (c.14). There are two rates of machine games duty, 5 per cent and 20 per cent, with the lower rate being charged on the net takings from machines where currently the maximum cost to play dutiable games is not more than 10p and the maximum cash prize which may be won is not more than £8.

4.2 For regulatory purposes gaming machines are categorised by reference to maximum stake and prize limits under the Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158). The stake and prize values used in the Finance Act 2012 to determine whether machines are charged at the lower rate of machine games duty, were originally set to align with those used by the Department for Culture, Media and Sport (DCMS) to categorise certain low stake and prize gaming machines (Category D machines).

4.3 Paragraph 5(4) of Schedule 24 to the Finance Act 2012 provides that the stake and prize values for machine games duty can be increased by Treasury order. This instrument amends the stake and prize levels for machine games duty. This is the first time that this power has been exercised.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury, Mr Sajid Javid, has made the following statement regarding Human Rights:

In my view the provisions of the Machine Games Duty (Types of Machine) Order 2014 are compatible with the Convention rights.

7. Policy background

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

7.1 The stake and prize values which define the threshold figures between those machines that are charged at the standard rate of machine games duty (20 per cent) and those that are charged at the lower rate of machine games duty (5 per cent), are provided at paragraph 5(2) of Schedule 24 to the Finance Act 2012.

7.2 The lower rate of duty (5 per cent) applies to machines on which all the dutiable games which can be played are for a stake of not more than 10p and for a cash prize of not more than £8. (Type 2 machines). All other machines attract the standard rate (20 per cent).(Type 1 machines).

7.3 Gaming machines are defined, for regulatory purposes, by categories, depending on their maximum stake and prize limits. The government has increased the regulatory stake and prize limits for some gaming machines. The new limits for certain Category D machines, the lowest regulatory category, are 20p stake and £20 prize value, with up to £10 in cash.

7.4 If the stake and prize values which define the threshold figures for those machines that are charged at the lower rate of MGD (5 per cent) are not increased in line with the gaming machine stake and prize limits shown above, this would remove the benefit of the lower rate of MGD for these lower category machines.

7.5 The stake and prize values which define the threshold figures for those machines that are charged at the lower rate of machine games duty (5 per cent) are therefore to be increased accordingly. As a result of the amendment made by this instrument the lower rate of duty (5 per cent) will apply to machines on which all the dutiable games which can be played, are for a stake of not more than 20p, and for a cash prize of not more than £10.

- **Consolidation**

7.6 This statutory instrument amends paragraph 5(2) of Schedule 24 to the Finance Act 2012. It is not proposed to consolidate this legislation.

8. Consultation outcome

8.1 There has been no consultation prior to the making of this instrument. This instrument is being made as a consequence of amendments made by DCMS to regulatory legislation, the Categories of Gaming Machine Regulations 2007, that determine the maximum permitted stake and prize values for gaming machines. DCMS held a full consultation between 15 January and 9 April 2013. There was no consultation in respect of this instrument and nor is any required by the Tax Consultation Framework.

9. Guidance

9.1 Guidance on Machine Games Duty and how to pay it is available in Notice 452 Machine Games Duty on the HMRC website www.hmrc.gov.uk . This guidance will be updated in accordance with the amendments contained within this instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.gov.uk/the library/tiins.htm.

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 Any small firms employing up to 20 people that operate in this sector would enjoy a financial benefit from the changes in the same way as larger businesses. The regulatory impact on firms of all sizes is considered to be negligible.

12. Monitoring & review

12.1 HMRC will continue to monitor all aspects of the Machine Games Duty legislation.

13. Contact

Anne Merrell at Her Majesty's Revenue & Customs Tel: 03000 588078 or email: annemerrell@hmrc.gsi.gov.uk can answer any queries regarding the instrument.