

**EXPLANATORY MEMORANDUM TO  
THE GAMING MACHINE (CIRCUMSTANCES OF USE) (AMENDMENT)  
REGULATIONS 2015**

**2015 No. 121**

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 This instrument amends the Gaming Machine (Circumstances of Use) Regulations 2007/2319 (“the Circumstances of Use Regulations”) which are designed to ensure appropriate and proportionate safeguards for gaming machine players.
  - 2.2 The purpose of this instrument is to introduce a new requirement in relation to sub-Category B2 gaming machine content offered in premises other than a casino.
  - 2.3 This new requirement prevents individuals paying in excess of £50 for a single charge for use in respect of a sub-Category B2 gaming machine content unless certain conditions are satisfied.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative background**
  - 4.1 The Gambling Act 2005 (“the 2005 Act”) established a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting.
  - 4.2 The Categories of Gaming Machine Regulations 2007/2158 define four classes of gaming machine for the purposes of the 2005 Act, known as Categories A, B, C and D, and divide Category B into five sub-Categories. This instrument is concerned only with sub-Category B2 gaming machine content, for which the maximum stake is £100.
  - 4.3 The instrument to which this Memorandum relates amends the Circumstances of Use Regulations so that, for sub-Category B2 gaming machine content made available other than in a casino, an individual may not stake more than £50 for a charge for use of such a machine unless each payment made by that individual in respect of the use of that machine complies with one of three conditions.

- 4.4 The first condition is concerned with identification. After an individual has identified himself or herself to the operator, payments made in respect of the use of a sub-Category B2 gaming machine can be applied to stake more than £50 for a charge for use. An individual can satisfy the identification condition by using a qualifying document or object such as customer card, unique pin number and password, or pre-paid card (e.g. smart card or ticket). In order to obtain such a document or object, the individual must verify his or her home address, e-mail address or telephone number through the provision of documents, information or data. It is envisaged that an individual may verify their details by, for example, returning a text message, activating an e-mail link or showing a letter or document which confirms the individual's home address. This is known as the "identification condition".
- 4.5 The second condition is concerned with supervision. It allows payments made by an individual to be used to stake in excess of £50 for a charge for use of a sub-Category B2 gaming machine if each such payment has been processed or approved as a result of a face to face interaction between that individual and staff acting on behalf of the operating licence holder. Before the first occasion on which an individual pays more than £50 for a charge for use, this condition requires that each such payment is processed over the counter by staff on the premises. After that first occasion, subsequent payments may be processed by staff at the counter or be approved by staff at the gaming machine itself. This is known as the "supervision condition".
- 4.6 The third condition allows individuals to stake in excess of £50 for a charge for use of a sub-Category B2 gaming machine by applying a money prize won on the machine. A money prize satisfies this condition if it was won as the result of one or more payments made to that machine which satisfied the identification condition or the supervision condition, or the application of one or more money prizes won as a result of payments made to that machine which satisfied those conditions. Each such prize must have been accumulated through playing the machine, and be held in the credit meter of that machine. Once a money prize is collected from or otherwise delivered by a machine to the player, it ceases to be a prize of money's worth and can no longer be used to meet this condition. This is known as the "proceeds condition".

## **5. Territorial Extent and Application**

- 5.1 This instrument applies to England and Wales, and Scotland.

## **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**

- 7.1 Sub-Category B2 gaming machines offer the highest maximum stake of any gaming machine in Great Britain. The licensed betting offices in which they are predominantly found are often located on high streets and other relatively accessible locations. Some people have experienced considerable problems from gambling on these machines. The recent publication "Gambling

behaviour in England and Scotland – Findings from the Health Surveys for England 2012 and the Scottish Health Survey 2012” showed an estimated 7.2% problem gambling prevalence rate among people who use gaming machines in licensed betting offices. This is higher than for some other forms of machine gambling and many other products available in other terrestrial gambling premises regulated by the Gambling Commission. It is also higher than the overall problem gambling prevalence rate for the adult population, which is estimated to be around 0.6%.

- 7.2 In January 2013, the Government consulted on proposals to amend the maximum stake and prize limits for certain categories of gaming machine. In respect of sub-Category B2 gaming machines, the Government sought evidence on the extent of the impact that a reduction in B2 stakes or prizes might have both socially and economically. During the course of that review, both the Gambling Commission and the Responsible Gambling Strategy Board advised the Government that a precautionary reduction in stake was unsupported by the available evidence. However, both were equally clear that the Government could quite reasonably act on a precautionary basis, should the lack of transparency around the impact of B2 machines persist.
- 7.3 In its response to the consultation issued in October 2013, the Government decided not to amend stake or prize limits for B2 machines but concluded that the future of the machine was unresolved pending further work to explore what measures might be adopted to strengthen protections for users of sub-Category B2 gaming machines.
- 7.4 In April 2014, the Government announced its intention to introduce a new requirement that those accessing higher stakes on B2 machines (over £50) to load cash via staff interaction or use account-based play. The intended effect of the policy is that customers will benefit from improved interaction and more conscious decision making. In addition, account-based play provides greater opportunities for the provision of information, which is also beneficial in helping customers to make better informed decisions.
- 7.5 Account-based play gives players access to up-to-date and accurate data in the form of activity statements and real time information about their session of play. This can reduce biased or irrational gambling-related decisions, and help people to maintain control. The Government considers that tailored player information (such as account summaries or activity statements) may be a particularly effective way of giving clear and accurate information regarding game play and patterns of net expenditure.
- 7.6 Making staff interaction a compulsory component of high staking machine play ensures greater opportunities for intervention where patterns of behaviour indicate that someone may be at risk of harm from their gambling, as well as for other reasons, such as preventing crime. There is evidence which indicates that regular interaction can give players a reality check. This approach emphasises consumer control which is particularly important given that some experts believe that a lack of control may be a determinant of problem gambling.

7.7 Government intervention is necessary to create the appropriate regulatory environment in which these machines are provided.

## **8. Consultation outcome**

8.1 A consultation exercise was not specifically undertaken for this instrument. Instead, following a process of policy review, which included extensive and detailed dialogue with key stakeholders (e.g. the Gambling Commission, the Association for British Bookmakers and other major representatives from the industry), the Government resolved to take targeted and proportionate action to provide players with additional protection when using high stake gaming machines on the high street.

## **9. Guidance**

9.1 No additional guidance will be issued, although the Gambling Commission will take steps to ensure their licensees are aware of the regulations in advance of their coming into force.

## **10. Impact**

10.1 Our analysis suggests that the impact on business will be in the region of £17m per year in direct costs. The proposed legislation is compulsory and introduces a new requirement on licensed betting offices which stipulates that customers have to load cash via staff interaction or use account-based play in order to access higher stake options (over £50). The present value cost to business is estimated to be £50m over 3 years. This cost is likely to be sustained through a proportion of customers choosing to reduce their stakes to £50 or lower in order to continue playing without any staff interaction or using account-based play. It is anticipated that this will result in reduced losses for some of these customers, thereby reducing industry revenues.

10.2 In addition, customers who stake in excess of £50 will benefit from more conscious decision making and increased interaction with staff. It is recognised that additional negative impact on industry revenues is likely to occur as a result of players benefitting from greater access to information and improved decision making, resulting in some players choosing not to gamble where previously they might have.

10.3 The Government is satisfied that the instrument will have no impact on the public sector.

10.4 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website.

## **11. Regulating small business**

11.1 These Regulations apply to all operators who make sub-Category B2 gaming machines available in premises other than a casino.

## **12. Monitoring and review**

12.1 The Government expects the industry to monitor and review the effectiveness of these Regulations in helping players remain in control, in line with their obligations to promote social responsibility. The Government expects the industry to share the results of such monitoring with the Gambling Commission.

12.2 The Government will monitor the impact of the Regulations and will have regard to their effectiveness during the next triennial review of gaming machine stake and prize limits, which is scheduled to take place during 2016.

## **13. Contact**

Ronnie Whittington at the Department for Culture, Media and Sport (tel: 020 7211 2283 or e-mail: [ronnie.whittington@culture.gov.uk](mailto:ronnie.whittington@culture.gov.uk)) can answer any queries regarding the instrument.