



department for
culture, media
and sport

1 May 2007

Dear Colleague

DRAFT GAMING MACHINE (CIRCUMSTANCES OF USE) REGULATIONS 2007

I am writing to give you sight of the draft regulations which the Department is developing under Section 240 of the Gambling Act 2005, relating to the use of gaming machines. I also attach the following related draft regulations:

- The Gaming Machine (Single Apparatus) Regulations 2007 – which define a single gaming machine for the purposes of the Act by reference to a single player position;
- The Gaming Machine (Supply &c.) Regulations 2007 – which prohibit the supply or installation of gaming machines which have been designed to allow stakes to be paid by means of a credit card or debit card.

These three sets of draft Regulations build on the extensive consultation which we have undertaken with the industry, Gambling Commission and other interested parties over the past year, and which is still ongoing. These draft regulations are the most complex we have produced throughout the whole programme of work to implement the Gambling Act 2005. I would like to place on the record my thanks to everyone who has contributed to the process up to this point.

As you will recall, I wrote informally to key stakeholders on 31 May 2006 to outline our initial thinking on the regulations. We also held a series of meetings with key stakeholders including BACTA, the Casino Machine Manufacturers' Group, the British Casino Association and the Association of British Bookmakers to discuss the approach proposed in the informal consultation paper.

Having considered carefully all the points that were made during this first phase of consultation, on 9 February 2007 the Department published a formal consultation paper. On 12 April I wrote to key stakeholders to clarify certain aspects of our proposals in relation to residues. We also recently held a further round of meetings with key stakeholders to discuss issues arising from both these documents.



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The closing date for responses to the formal consultation paper is Thursday 3 May, and I would like to take this opportunity to remind those of you who have not already done so to let us have your responses to the formal consultation paper by this date.

The draft regulations build on the proposals included in the formal consultation paper, and seek to address a number of issues which stakeholders have raised with us in recent meetings.

The broad approach remains consistent with the one we have taken throughout, and there are a number of points that I would particularly like to draw to your attention:

- we have sought to limit the scope of the regulations under Section 240 to those areas of a gaming machine's operation which are fundamental to the delivery of the licensing objectives of the Act, particularly those relating to the fairness and openness of the gambling offered, and the protection of children and other vulnerable people. These are the aspects which we think it is reasonable to require all operators of machines to take responsibility for;
- we have sought to ensure that the overwhelming majority of gaming machines currently offered under Part III of the Gaming Act 1968 will be capable of complying with the new regulations from 1 September 2007 with the minimum of adaptation or cost – in fact, in the overwhelming majority of cases all that operators will need to do is attach information (eg a sticker) to a machine identifying which category of machine it is under the new Act;
- we have sought to give manufacturers new flexibilities in the way they can design and build machines, which draw on international practice while retaining those safeguards from the existing legislation and current industry practice which we believe have worked well over the years;
- we have sought to replace the confused and piecemeal set of rules, regulations and voluntary codes which have evolved over the past forty years with a coherent set of rules based on a clear rationale which can form the framework for future machine development in the industry.

It is important to note that while we think that the overwhelming majority of gaming machines currently offered under Part III will not have any difficulties in complying with these Regulations from 1 September 2007, where this is not the case, we have asked stakeholders to provide us with evidence relating to what they would need to do to make machines compliant, how many machines are likely to be affected, how long this is likely to take and how much it would cost. We will consider carefully any such evidence emerging from the consultation when finalising the regulations and regulatory impact assessment.

There is also equipment currently in use in the industry – in particular, Fixed Odds Betting Terminals and Section 16/21 machines - which is not offered under Part III of the Gaming Act 1968, but which will be regulated alongside other gaming machines for the first time from 1 September 2007. The new flexibilities referred to above will, as far as it is considered consistent with the licensing objectives, seek to accommodate the way in which any equipment not covered by Part III currently operates, for example, by permitting the development of machines configured around a single meter for the first time in Great Britain. There may, however, be areas in which some adjustment will be necessary to bring this equipment into line with the system of regulation

for gaming machines. While the Department will consider carefully any estimates relating to likely costs of compliance in relation to this equipment, this will need to be balanced against the important social policy benefits of ensuring that this equipment is for the first time fully regulated alongside other gaming machines. Our approach towards the regulation of equipment not covered by Part III is consistent with what we said in this regard during the passage of the gambling bill through Parliament and since then.

These Regulations remain in draft form. We are publishing the draft Regulations now so that stakeholders can see how we have sought to address many of the points which you have raised through the consultation process so far. These draft Regulations are being notified to the European Commission under the Technical Standards Directive.

We see this as the beginning of the third and final phase of our consultation with the industry on these Regulations. It gives us a final opportunity to consider with stakeholders:

- whether we have satisfactorily addressed the concerns which you have raised with us so far during the consultation period – allowing for the fact that there will inevitably be areas where we cannot agree fully;
- any further questions or concerns which are raised in the remaining written responses to the formal consultation paper;
- whether the regulations as drafted deliver what they are intended to do, and do not inadvertently create unforeseen problems for the industry.

I am conscious that these Regulations are complex, particularly those being proposed under Section 240. I have, therefore, included with this letter an introduction to the draft Regulations under Section 240 which outlines of some of the key areas where our proposals have developed from the formal consultation document, and explains how the regulations are intended to work. I hope you will find this useful.

I would be grateful for any comments or questions you may have about the draft regulations. It would be helpful if you could let us have any comments by **Friday 1 June**. We would, of course, be happy to meet again with trade bodies and others to discuss any questions arising from the Regulations in more detail if that would be helpful.

with best wishes,



David Fitzgerald
Head of Gaming and Lotteries

INTRODUCTION TO THE DRAFT GAMING MACHINE (CIRCUMSTANCES OF USE) REGULATIONS 2007

This is not intended to be a comprehensive guide to the draft Regulations, rather it seeks to highlight those areas where we have made adjustments to the proposals set out in the formal consultation document following consultation with stakeholders, and to assist readers to understand certain aspects of the draft Regulations.

Regulation 2(a) – Parallel games

This regulation will prevent the development of parallel games, which enables a player to start a “game” once and the machine will make a number of determinations at the same time. Such machines seek to circumvent the maximum stake and prize rules by enabling a player to stake simultaneously multiples of the maximum stake permitted for its category of machine.

Regulation 2(3) – Exemption for penny falls

This regulation is designed to exempt pushers or penny falls from regulation 2(a). This will ensure that pushers or penny falls which do not prevent a player from inserting a second coin or token before the outcome of the previous “game” is known will not be caught by regulation 2(a).

Regulations 2(5)-(6) – Money prizes

These paragraphs define money and non-money prizes. Sub-paragraphs (5) and (6) seek to address a question raised by BACTA in relation to the formal consultation paper. It is designed to clarify what will and will not count as a money prize. Tokens, smartcards and similar objects, which have no other purpose other than acting as a cash substitute, will count as money prizes for the purposes of the regulations.

A wristwatch will not count as a money prize merely because the operator offers a facility whereby such a non-money prize can be exchanged for cash.

Regulation 3 – Display of information

At the request of a number of stakeholders, sub-paragraph (3) gives manufacturers the option of having permanently on display a notice indicating where information relating to a player’s chances of winning (where such chance is expressed in terms of the odds of winning) can be found. This information must be readily available to a player using the machine.

We imagine that this will be of particular interest to manufacturers of random, video-based gaming machines, particularly those where information relating to a player’s chances of winning is likely to be complex. Rather than having to display all this information permanently on screen (or elsewhere on the machine box), they will instead be able to display permanently a notice indicating where the information can be found (this could, for example, be a labelled button or other link to this information).

A number of stakeholders suggested that the rules relating to the display of information would present design challenges in incorporating so much

information on the glass or player's view of the machine. For the most part, the display requirements mirror current Gambling Commission requirements and what is already voluntary best practice across the industry.

The requirement to display the category of gaming machine is new. It is intended to help local authority licensing officers quickly identify the category of machine, and as such we agree that it is not necessary for this information to be included on the front of the machine. Sub-paragraph 5(b) makes it clear that this information need be displayed only somewhere where it can be readily visible to someone inspecting the machine. For the avoidance of doubt, we are not requiring that this information be displayed on any particular form of notice – a sticker will be enough to meet the requirement.

Regulation 5 – Minimum payment amount

This regulation will mean that stakes must be made up in units of a penny. Stakes of less than 1p, and stakes of – say – 27.3p, will not be permitted.

Regulation 7 – Payment limits

This regulation gives effect to the proposals which were referred to in the formal consultation document as limits on the amount of money which can be deposited in a machine in one go.

The regulation covers any initial payment (of money or money's worth) to use a machine which is:

- (a) used instantly to pay a charge for use – this is intended to cover machines where the game is started as soon as the player inserts money into the machine (eg a penny fall or a horse race type game in an arcade); or,
- (b) held to the credit of a person using the machine – this will cover any other type of gaming machine where, once you have inserted or uploaded money to the machine, you have a credit and may then transfer this money from a deposited meter to a committed meter, or to a further deposited meter, pull a handle or press a button to start the game. If the credit is held as committed money at this stage it is subject to the limits in regulation 8.

As we made clear in recent meetings with BACTA and the CMMG, what this does not prevent is the insertion of a £50 note or a smartcard loaded with £50 or similar non-cash technology into a machine which enables the machine to read or recognise it. What is key is that only £20 may be transferred in any one go (from any higher amount) so that it is held to the credit of the person using the machine.

A machine which enabled a customer to insert a £50 note, transferred £20 to the player's credit and gave out £30 in change would in our view meet this requirement. Similarly, a machine which enabled a customer to insert a £50 note, and which then asked the customer whether he/she wished to deposit £20 on the machine (and could then go on to ask the customer whether he/she wanted to deposit a further £20 and then a further £10 onto the machine) would in our view also comply with this regulation (provided it was able to give change at the point

where the player decided not to continue transferring funds over).

In just the same way, a smartcard loaded with £50 could be inserted into the machine, as long as only £20 could be deposited from it to the machine in any one action.

It is important to note that the limits in regulation 7 apply to the initial action a player takes to make a payment eg load and credit money onto the machine. Unlike regulations 8 and 10 (and the charge of use limits in the Section 236 regulations), it has no effect on transfers of money already credited to the machine.

Regulation 8 – Committed payment limits

This regulation sets limits on money or money's worth paid or transferred on a machine in the form of committed money.

The limits set give effect to the undertaking given in the formal consultation paper to bring the committed payment limit for category B3 machines into line with those proposed for category A, B1 and B2 machines.

Regulation 9 – Autoplay

The CMMG advised us that a significant number of Section 31 machines in casinos no longer have a committed money meter in the way that Section 34 machines do, but are now capable of returning to the player money from both the "play meter" and the "bank meter". In effect, using the terminology from our consultation document, they have two deposited money meters.

As originally drafted, our proposals would have meant that such machines would be treated in the same way as a single, deposited-money meter machine, and would not have been permitted to offer autoplay. We agree that this restriction would be too onerous where these machines have the additional safeguard of requiring customers to transfer money from a first deposited money meter to a second before it can be used to pay for a charge for use of the machine.

Sub-paragraph (4) and (5) address this point by exempting these machines from the prohibition on autoplay which will apply to single, deposited-money meter machines, provided any transfers between the two deposited meters does not exceed £10 in a single action (ie the same limit as applies to a transfer between a deposited and a committed meter machine which is permitted autoplay).

Where no autoplay is offered on a second deposited meter, there is no limit on the amount that may be transferred between the first deposited meter and the second deposited meter.

Regulation 10 – Special provision for Category A and B2 machines

This regulation gives effect to the proposal included in the consultation document that, on category A or B2 machines where the charge for use of the game is taken

from a deposited sum (in practice these are likely to be single meter machines), the stake for each use of the machine can only be made up in tranches of £10. The total stake paid can be higher than this, within the limits for the category of machine.

The Association of British Bookmakers raised a question of how this would affect the "repeat bet" button on FOBTs, and the CMMG was also keen to explore the impact on category A machines, where the maximum stake would potentially be more than £10.

Sub-paragraphs (5)-(8) seek to respond to these concerns. Where someone has staked more than £10 in a single play of the machine complying with the £10 accumulation rule in regulation 10(3) and (4), these provisions enable customers to stake up to that amount again as long as they take one action to indicate to the machine that that is what they wish to do (eg by pressing a repeat bet button), before they take a further action to pay the charge for use (eg by pressing play to start the game). The regulations will not prevent customers, after they have pressed the repeat bet button, either increasing their stake in further tranches of up to £10, or reducing their stake, from the previous play of the machine.

Regulation 11 – Residues

This regulation gives effect to the proposals in relation to residues which were explained in David Fitzgerald's letter of 12 April.

Residues of up to 99p will only be permitted in a cash form on machines which do not have a means of returning the money in full to the player, and which are unable to pay the exact sum in coins. Machines must carry a warning stating the maximum which the machine may retain as a residue, and any residue must be retained on the machine for the use of the next player.

It is important to note that this rule does not override the requirement in regulation 12 that customers must have the option of collecting their prize in full. Although please note that an exemption from this "prize in full" requirement has been proposed for gaming machines manufactured prior to 1 September 2007 (see regulation 12(7)).

Sub-paragraph (3) also requires that sums left by a player on a machine as a committed amount to be used to pay for further stakes on the machine by subsequent players.

Regulation 12 – Delivery of prizes

Regulation 12 gives effect to the policy in relation to the delivery of prizes set out in the formal consultation paper, and in David Fitzgerald's letter of 12 April.

The principle underpinning this regulation is that, just as in any other form of gambling, when they play a game on a gaming machine customers must be capable of collecting any prize they win. We view prizes as the customer's money, and the customer should be free to do what he or she wants with that money.

There should be no automatic assumption that it should be deposited or used to pay for a charge for use on the machine - the customer must elect to do so.

Even on machines with two meters any wins are added automatically to a deposited sum (often the bank on a dual meter machine), and these Regulations require that any wins in the deposited meter must be capable of being returned in full to the player, and no residue will be permitted. For example, if a machine is only capable of delivering prizes in whole pound coins, a win of £3.40 has to be rounded up to £4 to ensure compliance with this requirement, as is current practice on many existing Section 34 machines.

In response to concerns expressed by a number of interested parties in relation to existing machines, sub-paragraph (6) provides for an exemption from this "prize in full" regulation for any machine manufactured prior to 1 September 2007. This will ensure that no existing machines will incur compliance costs as a result of this regulation.

Gaming and Lotteries Team
DCMS
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