

## Department for Culture, Media and Sport

### Draft Regulatory Impact Assessment

#### **1. Title**

The Gaming Machine (Circumstances of Use) Regulations 2007 and The Gaming Machine (Supply &c.) Regulations 2007

#### **2. Purpose and intended effect**

##### Objectives

2.1 To control the circumstances in which a gaming machine is made available for use in line with the licensing objectives of the Gambling Act 2005 (the Act). Section 240 sets out particular provisions to which these controls may refer:

- the method by which payments may be made for the use of a machine;
- the nature of, and arrangements in respect of receiving or claiming, prizes;
- the rollover of stakes or prizes;
- the proportion of amounts staked or paid that is returned by way of prizes;
- the display of information on a machine;
- any other matter relating to the manner in which a machine operates.

2.2 To prevent the use of credit and debit cards in gaming machines.

##### Background

2.3 The Act introduces a new system of regulation for gambling, which will replace the current system of regulation set out in the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

2.4 Part 10 of the Act concerns gaming machines, which replaces and updates Part III of the Gaming Act 1968. A "gaming machine" is defined under section 235 of the Act as "a machine which is designed or adapted for use by individuals to gamble". Section 235(2) contains a number of exemptions to this broad definition. The overwhelming majority of gaming machines are commonly known as "fruit machines" or "slot machines" and are often found in casinos, arcades, betting shops and pubs. Other types of gaming machine include crane grabs and penny falls, which are often found at seaside amusement arcades.

2.5 Gaming machines under the Act will fall in to one of four categories, to be known as Categories A, B, C and D, where Category B machines are subdivided into Categories B1, B2, B3 and B4. These categories will be defined by separate regulations made under section 236 of the Act according to the maximum stake and prize limits for each category of

- machine. Separate consultation has been undertaken on those regulations.
- 2.6 Section 240 of the Act gives the Secretary of State the power to make regulations controlling the circumstances in which a gaming machine is made available for use, and sets out particular provisions to which the Secretary of State may have regard when making such regulations. It is the exercise of this power under section 240 with which this Regulatory Impact Assessment (RIA) is concerned.
- 2.7 The existing rules relating to the operation of gaming machines under Part III of the Gaming Act 1968 will not lapse until the 2005 Act is brought fully into effect. The Government has announced previously that the formal implementation date for the Gambling Act 2005 will be 1 September 2007 and all gaming machines will be expected to comply with these regulations from that date.
- 2.8 Figures published by the Gambling Commission<sup>1</sup> indicate that there are some 235,000 gaming machines sited in Great Britain. Of these, there are approximately: 192,000 Amusement With Prize (equivalent to the new Category C) machines; 25,000 club or jackpot (equivalent to the new Category B1, B3 & B4) machines; and 17,000 machines like penny falls and crane grab (equivalent to the new Category D) machines.
- 2.9 In addition to these numbers there are approximately 25,000 Fixed Odds Betting Terminals sited in Great Britain (equivalent to the new Category B2 machines).
- 2.10 These regulations will apply to businesses and people offering machines for use, who will all have a responsibility to ensure compliance with the regulations. Machine manufacturers, suppliers and repairers will also need to take account of these regulations to ensure their products are fit for use by operators. A gaming machine may be operated lawfully under the Act if an operator holds the appropriate operating and premises licence, permit or other authorisation. Operators can find more information on compliance with the new regime from the appropriate licensing authority or from the gambling regulator, the Gambling Commission ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)). These regulations will be complemented by technical standards for machine manufacturers and suppliers which the Gambling Commission will promulgate under its powers in Section 96 of the Act, following a similar consultation process to that currently being undertaken by the Department.
- 2.11 The full background to the regulation of gaming machines under the Act was set out in the Regulatory Impact Assessment, which was published in April 2005 to accompany the Act. The Department's policy on the use of machines was published in the Delegated Powers Memorandum to the Select Committee on Delegated Powers and Regulatory Reform published in January 2005. The relevant extract from the Delegated Powers Memorandum is reproduced at Appendix 1.

---

<sup>1</sup> Gambling Commission Annual Report 2005/06

## Rationale for Government intervention

2.12 The Government is proposing to use the powers under section 240 to regulate those areas of a gaming machine's method of operation which are fundamental to delivery of the licensing objectives, particularly the second and third objectives of fairness and protection of children and the vulnerable. The licensing objectives are:

- Ensuring gambling remains crime free;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable people from harm.

2.13 While gambling can be a normal leisure activity that many people enjoy, it also brings with it risks of personal and social harm. The proposals under this section are particularly important for regulating how players pay to use machines, so effective control of these circumstances is paramount for the protection of players, particularly those who may be vulnerable to problem gambling. In terms of the Government's wider objectives, machine gambling requires careful, balanced and proportionate regulation if the broad spectrum of users are to enjoy informed choice and an effective level of protection within an environment that allows legitimate businesses to thrive.

2.14 The Government is committed to delivering the licensing objectives through rules controlling the use of gaming machines, but has also looked carefully at how industry operates under the current law and has listened carefully to all representations from stakeholders. The proposed regulations have been limited to those regarded by the Government as fundamental to the operation of the machine, and about which an operator can be reasonably expected to make him or herself aware.

2.15 It is also important to note that the regulations have been drafted in such a way as to ensure that existing machines, currently operating in accordance with the requirements of Part III of the Gaming Act 1968, should not require significant modification to be fully compliant with the new regulations under Section 240 from 1 September 2007. At the same time, the proposed regulations 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 best practice which have worked well over the years.

2.16 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 fall to be regulated alongside other gaming machines for the first time from 1 September 2007. There are approximately 25,000 FOBTs, 3,500 section 21 machines and an estimated 12-14000 section 16 machines currently in operation. 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 this equipment 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 benefits from a social policy perspective of ensuring that this equipment is for the first time fully regulated as gaming machines.

2.17 There are a number of further reasons why the Government's intervention is necessary:

2.18 First, under the current law, a confused and piecemeal set of rules, regulations and voluntary codes have grown up over the past forty years, and the regulations have struggled to keep pace with technological developments in the industry. Implementation of the new Act presents an opportunity to replace this with a coherent set of rules with a clear rationale pursuant to the licensing objectives of the Act which can form the framework for future machine development in the industry.

2.19 Second, these regulations constitute an important part of the Government's coordinated approach to gaming machines under the new legislation. The Act establishes a comprehensive framework of regulation for gaming machines, with the intention that they should be both flexible and future-proofed. Regulations are the most effective mechanism through which to ensure adequate protections are provided to players, and to ensure that operators and manufacturers are accountable for machines they make available for use.

2.20 While these regulations fit closely with the Gambling Commission Technical Standards, they relate in most cases to aspects of the operation of the machine which are readily visible when used. The detailed technical operation of machines is being left to the Technical Standards. The Department believes that matters relating to these external elements of the machine are better covered by regulations than by the Commission's Technical Standards because these matters are core to the Government's delivery of the licensing objectives. The regulations will also fit with other regulations under Part 10 of the Act (e.g. Categories of Gaming Machine Regulations under section 236) to produce a set of complementary measures designed to meet the objectives of the Act, whilst still providing industry with the opportunities to develop and innovate.

2.21 Third, there is a significant body of evidence<sup>2</sup> to suggest that gaming machines can pose a threat to problem gamblers. The Government has considered this evidence and believes that the appropriate intervention is to set regulations in line with the licensing objectives.

2.22 It is also clear from the Delegated Powers Memorandum that the setting of regulations is an appropriate reflection of the intentions of Parliament, expressed during the passage of the Bill.

2.23 Finally, the Department recognises that the gambling industry is a significant sector of the British economy, with an estimated annual

---

<sup>2</sup> Budd Report 2001, page 85 & GamCare Care Services, 2006 Report

turnover of £10.3 billion in 2005 and directly employing an estimated 22,000 staff in Great Britain. Income from gaming machines accounts for a significant proportion of this market – in 2005-6 the Gambling Commission Report recorded that revenues from gaming machines were £2.1bn. In setting these regulations the Department's aim has been to create conditions that will allow the industry to continue to innovate, develop new products which appeal to customers and so remain profitable, while ensuring that appropriate and proportionate protections for customers are in place. It is in the interests of all responsible operators in the industry that there is a robust system of regulation, which means customers can have confidence that they will get a fair gambling experience and that there are protections in place for those that need them.

2.24 It should be noted that regulations under Section 240 and section 241 are subject to the negative resolution procedure in Parliament.

### **3. Consultation**

#### Within government

3.1 The Government has worked closely with the Gambling Commission to develop these proposals. The proposals complement the detailed specifications relating to the technical operation of gaming machines covered by the Gambling Commission through its Technical Standards under Section 96 of the Act, and there has been extensive discussion between the Department and the Gambling Commission to ensure a proper fit between these two key sets of requirements.

#### Public consultation

3.2 On 31 May 2006, the Department wrote informally to a number of key stakeholders to outline the Government's initial thinking on the rules regulating how gaming machines are to operate. Stakeholders included trade bodies from across the gambling industry, groups with a particular interest in the use of gaming machines and representatives of faith and other groups concerned about problem gambling. There were 16 written responses to this exercise, which closed on 19 June 2006: 1 from a gambling concern group; 6 from industry stakeholders; and 9 from industry umbrella organisations.

3.3 The consultation document set out the broad principles that the government had applied in developing its detailed proposals. The consultation threw up two main issues in relation to these broad principles:

- Some respondents felt it was unfair that operators of machines should be liable for ensuring that their machines complied with the regulations;
- Some respondents felt that in a number of areas the proposals did not comply with international practice.

3.4 These points were addressed in a paper outlining the Department's revised proposals, which was published on 9 February 2007. The response to each issue in summary was:

- It is important that operators take responsibility for the machines that they offer for use. If such responsibilities were not imposed on operators, there would, for example, be no powers for the Gambling Commission to take action against any less scrupulous operators who had knowingly made available non-compliant machines;
- The proposals seek to balance the application of international practice with the characteristics of the current gaming machine industry, which have become well established in Great Britain, including safeguards which have proved effective over the years.

3.5 For machines currently manufactured in accordance with the rules that have evolved under the 1968 Act, the proposals extended a number of reforms which had previously only been permitted in respect of jackpot machines (Category B) to Category C machines. At the same time, the Department's proposals for the first time in law created the potential for gaming machines to be configured completely differently, around a single meter. These changes were designed to give manufacturers new choices and flexibilities in the way they develop machines, while retaining some of the protections under the existing law which we consider have stood the test of time. Some of the principal reforms we have proposed are summarised in the table:

<b>Proposal</b>	<b>Current position</b>	<b>Proposed benefit</b>
<b>Limits on deposited money</b>	Deposit limit of £2 on s.34 machines	Increased to £20 for category C
<b>Receiving and claiming prizes</b>	Prizes cashed out on s.34 machines	Allow money prizes to be credited to deposited money meter
<b>Creation of rules for machines where charges to use the machine are taken from deposited money</b>	Machines must have at least two meters – a deposited money meter and a further deposited or committed money meter	For the first time machines may be configured around a single deposited money meter, provided certain safeguards are met

3.6 Following the publication of the informal consultation paper, the Department 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 proposed approach. 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 2007, the Department also wrote to stakeholders to clarify certain aspects of the proposals in relation to residues. To coincide with these papers, the Department held a further round of meetings with stakeholders to discuss issues arising from both documents. A summary of these meetings is included in the table below:

<b>Organisation</b>	<b>Date of meeting</b>
Association of British Bookmakers (ABB)	07/03/07 13/06/06
British Amusement Catering Trade Association (BACTA)	04/04/07 19/10/06
British Casino Association (BCA)	03/11/06 27/07/06
Casino Machine Manufacturer's Group (CMMG)	18/04/07 29/03/07 14/06/06
London Councils	07/12/06
Responsibility In Gambling Trust (RIGT)	30/11/06

3.7 In the light of these meetings, and the written responses to the informal consultation paper, the proposals were modified to ensure that they represented a proportionate treatment of the regulatory risk. These changes included:

<b>Proposal</b>	<b>Details of original proposal</b>	<b>Modification in response to industry consultation</b>
<b>Residues</b>	Permitted up to £1 cash residue on machines like existing Section 34 machines which have a committed money meter	The Department has agreed to extend a cash residue of up to £1 to machines which operate only a deposited money meter or meters
<b>Display of information</b>	Information about a player's chances of winning must be displayed permanently on the machine	Manufacturers and operators have the choice to either display the odds of winning on the machine itself or in help pages in the game e.g. on non-compensated machines.

<b>Committed money limits</b>	Limit on Category B3 machines	Increased from £5 to £10
-------------------------------	-------------------------------	--------------------------

3.8 In a number of areas, the Department did not feel able to amend its original proposals in the way suggested by the industry, the Department has sought through its published consultation documents and meetings with stakeholders to explain why. At the same time, the Department has still not ruled out changing its view on these matters, and has invited the industry to present it with evidence to support its view that a different approach should be taken.

3.9 In a few areas, the Department has proposed new regulations which will affect all gaming machines, including those currently in operation under the Gaming Act 1968. The Department has sought to limit any new regulations to areas where the social policy justification is in its view compelling, or in an attempt to cure deficiencies in the current law. We have encouraged industry to discuss the proposed changes with us, particularly in relation to any compliance costs likely to be incurred by the changes.

3.10 The proposals ensure that the overwhelming majority of machines currently offered under Part III of the Gaming Act 1968 will be able to be offered post implementation with the minimum of modification. In most cases, the only modification that will be required will be the display of some additional information on the machine, which in many cases may amount to the application of a sticker displaying the required information. The industry has supplied some broad estimates of the likely costs, but accurate, precise and mutually consistent data has not generally been available. The Department nevertheless intends to make estimates of suggested compliance costs (see below) and has invited respondents to the consultation paper to submit 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.

#### **4. Options**

4.1 Five options have been considered.

##### Option 1 - replicate the position under the current law

4.2 Setting new regulations under section 240 constitutes an important part of the Government's coordinated approach to gaming machines under the new Act, not least because new regulations can take account of developments in the industry since the 1968 Act and cover areas not adequately addressed under the current law. Replicating the current law

will not deliver necessary protections, nor will it introduce long-promised flexibilities for the industry.

#### Option 2 – set controls through the Gambling Commission’s Technical Standards

4.3 The Gambling Commission takes a comprehensive and detailed approach to setting standards for gaming machines, but setting controls on the way in which gaming machines operate, which apply to all machine operators, is fundamental to the delivery of the licensing objectives. Technical Standards only apply to holders of licences to manufacture, supply, etc. machines. The ability to set central regulations under section 240 allows rules of universal application to be set, particularly at the point of end use.

#### Option 3 – industry self regulation

4.4 The industry has a good track record of self regulation in many areas of operation. However, with rules of such a technical and complex nature it is preferable to take a comprehensive approach to controlling the use of gaming machines, which is also coordinated with the Government’s general approach to machine gambling under the Act. Enforcement is also an area where self-regulation is unable to deliver the necessary outcomes in cases of breach. The regulations route will provide greater transparency and certainty to operators and players alike, than a self-regulatory approach, thereby ensuring that the licensing objectives are met.

#### Option 4 - set no regulations under s.240

4.5 The Secretary of State has the option not to set regulations relating to the use of gaming machines under the Gambling Act 2005. However, the Government has made a commitment to both the users and operators of gaming machines to deliver protection and modernisation in this sector as a result of the new Act . It would be inconsistent with this policy not to set regulations under s.240 which achieve this.

#### Option 5 – set new regulations which ensure that existing machines will continue to be able to operate with the minimum of adaptation after 1 September 2007, but which offer new flexibilities in the way in which machines can be developed from that date

4.6 This option would ensure consistency with previously published policy and deliver the necessary new regulation in a clear and universal manner. It gives the Department a firm base from which to develop regulations and creates a transparency that gives stakeholders sight of the proposals as they evolve. It also allows the Department to take account of representations from and discussions with industry and other key stakeholders since the publication of the Delegate Powers Memorandum.

#### The Government’s chosen approach

4.7 Option 5 is the preferred option. It provides the best fit with the Government's objective to effectively control the circumstances in which a gaming machine is made available for use, and provides the best tool for delivery.

4.8 The Department has based its approach to these regulations on the Delegated Powers Memorandum and the matters highlighted in subsection 240(2) of the Act. The detailed policy issues considered in taking this approach are set out below.

*Limits on deposited money*

4.9 There are limits under the existing law and practice on the maximum amount a player may deposit on a machine. The BACTA Consolidated Machine Guidelines (agreed with the Gambling Commission), stipulate that the highest denomination note that should be inserted in a s.31 jackpot gaming machine is £20, and that a player should deposit no more than £20 from a smart card (or similar device) without a fresh action. Current s.34 AWP machines are configured to accept a maximum cash deposit of £2.

4.10 The Department considered not setting any limits by regulation and maintaining the status quo of industry self-regulation. However, the setting of regulatory limits on deposited money is consistent with the second and third licensing objectives of fairness and protection of the vulnerable. It becomes particularly important to limit deposits when dealing with the use of smart cards and the development of similar devices for cash-less transactions on machines, which may otherwise allow players to gamble potentially large amounts of money without positive and regular decisions to do so.

4.11 The approach under the current system will form the basis of the approach to the new regulations. The £20 figure has been chosen for all machines except Category D because it replicates the current position for s.31 machines and is equivalent to the highest value bank note in general circulation *and* everyday use.

4.12 A £20 limit represents the status quo for jackpot machines (category A and B), and presents a significant liberalisation for s.34 machines (category C machines). This proposal meets the Government's commitment to extend the liberalisation of the payment methods for current s.31 machines, contained in the Regulatory Reform (Gaming Machines) Order 2003, to all AWP machines, except those with the lowest stakes and prizes (category D machines under the new Act). The Department believes that a £20 limit adequately meets the requirements of the licensing objectives whilst providing greater flexibility for gaming machines in pubs and the adult only areas of arcades (category C machines).

4.13 The Department is aware that TITO systems do not limit deposit amounts (although the ABB Code of Practice limits maximum stakes to £15 “chip” limits, £100 total stake and to £500 in prize payouts), so imposing a £20 deposit limit would incur a compliance cost. The Department has been presented with no convincing arguments for why this one form of technology should be exempt from a general rule on deposit limits intended to protect potentially vulnerable customers. The Department has invited the industry to submit evidence in relation to the likely compliance costs and lead times that the relatively small section of the current market already employing TITO technology will face as a result of this safeguard.

4.14 In considering the right deposit limit for Category D machines, we consider that the existing maximum coin value of £2 should remain in force, to reflect the lower stake limits on these machines and the fact that children can use them.

*Limits on committed money*

4.15 Committed money is *money that a player transfers onto or within a gaming machine and which will not then be returned to him*. He may use this money to pay for gambling on the machine (his stake), but if he does not, this committed money is not returned.

4.16 There is precedent in the current law for the rules on committed funds. The Regulatory Reform (Gaming Machines) Order 2003 (SI 2003/3275) amended the Gaming Act 1968 to provide that where a payment is made for use of a s.31 jackpot gaming machine, which is in excess of the value of the highest denomination coin, and is legal tender, and in general circulation in the UK (i.e. by banknote or uploading funds from a smartcard), the initial amount held to the player’s credit for the purpose of paying the charge for the machine is not to exceed the highest denomination coin. No further amount is to be added unless the player takes action in respect of the machine to indicate that he wishes to continue to gamble. Thus, a fresh customer action is required to commit more than £2 per time to playing s.31 jackpot machines.

4.17 The setting of a maximum amount that may be committed to gamble in this way is important from a regulatory perspective in requiring people to make a regular and conscious decision to commit further money to gamble, particularly in meeting the 3<sup>rd</sup> licensing objective of protecting vulnerable players. Retaining the current £2 limit for Category D machines meets this licensing objective and places no new burdens on industry.

4.18 However, the Department recognises that £2 is an unrealistic limitation for gaming machines where the maximum stake is £1 or more. The proposal is therefore that the maximum for Category A, B1, B2 and B3 machines should be £10, which is a standard bank note worth five times the maximum stake permitted for B1 and B3 machines; and the maximum for Category B4 and C machines should be £5, which is a standard bank note worth five times the maximum permitted stake for those categories of

machine. A fresh customer action will be required to “commit” sums of money to gamble on a gaming machine, in excess of the above limits.

4.19 These maxima constitute a significant liberalisation of the current law: the new limit for Category A, B1, B2 and B3 machines will be five times higher than the current limit for all gaming machines under the 1968 Act; the new maximum for Category B4 machines will be two and a half times higher than the current maximum.

4.20 The Department recognises that the proposed maximum committed values are, on category A and B2 machines, lower or potentially lower than the maximum stake limits. This is entirely in tune with the licensing objectives, and should a player wish to stake greater amounts of money than he would have been allowed to commit under the above rules, he will need to make a conscious decision to do so to accumulate sums prior to staking them. This safeguard is particularly important with the higher stake limit machines.

4.21 Therefore, for Category A and B2 machines a maximum tranche amount of £10 will be set for the accumulation of stakes, whether this is done in the form of committed or deposited amounts. A fresh player action will be needed to build each £10 element of the total stake. The government has amended its original proposals to ensure that repeat bet buttons on existing FOBTs (which will become Category B2 machines) will be permitted under the new regulations, and will not fall foul of this limit provided that customers are required to take an action to indicate to the machine that they wish to replicate their previous gamble, before paying the charge for use.

#### *Payment methods*

4.22 The government has concluded that all forms of cash and non-cash payments are acceptable, with the exception of credit and debit cards.

4.23 The prohibition on the use of credit cards to gamble on a machine is well established and well accepted by industry, because of the potential credit cards may offer to players to gamble large amounts of money on credit.

4.24 The arguments in relation to debit cards are more finely balanced. However, the Department concluded that it would be inconsistent with the licensing objectives to permit debit card payments directly in machines, because of the potential amounts of money this could allow a player to gamble without interruption. The Department did, however, conclude that allowing players to use debit cards to purchase smartcards and other cash alternatives introduces an additional step to the decision to gamble and, therefore, corresponds with the licensing objectives.

4.25 The proposal is therefore that all forms of payment (cash, coin, smart card) are acceptable in all categories of machine except:

- credit and debit cards may not be inserted directly into a machine; and

- the purchase of cash alternatives (smart cards or similar) by credit card will be prohibited.

4.26 This replicates the current position and does not therefore introduce any new burdens on industry.

4.27 Regulations under section 241 will similarly prevent the supply or installation of any gaming machine that is designed or adapted to accept payment by means of a credit or a debit card. This is a straightforward replication of the current position, maintained to ensure that there are no gaming machines in the market place that accept payment directly from a debit or a credit card. The section 241 regulations will also prevent indirect forms of payment for gaming machines which are made by means of credit card (e.g. purchase of a smartcard by credit card). So while the section 240 regulations apply these rules to operators making gaming machines available for use, the section 241 regulations apply to other elements of the supply chain, as appropriate.

4.28 Neither the Department nor the Gambling Commission are aware of any machines currently in operation that would need to be altered to comply with this proposal. The proposal has not been opposed by industry stakeholders and will not introduce any new burdens on industry.

#### *Residues*

4.29 The BACTA Consolidated Gaming Machine Guidelines agreed with the Gambling Commission contain guidance on the retention of residues in a gaming machine. Under the guidelines, machines are able to retain and not return to the player, coin residue in amounts that are less than £1. A gaming machine must therefore return any whole amounts of £1 or more remaining in the machine, but are not required to return any amount less than that.

4.30 The Department first considered asking the Gambling Commission to set rules in relation to residues in line with the current approach. However, it became clear during the course of consultation that residue allowances would need to be built into the regulations themselves, in order to deliver the required policy. It also became clear that residues can affect the prize delivery from some machines.

4.31 The principle underpinning the government's approach is that, just as in any other form of gambling, when they play a game on a machine customers must be capable of collecting any prize they win. We see 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 further charge for a use of the machine - the customer must elect to do so.

4.32 The government is aware that some machines currently retain a residue, and may therefore include some portion of the player's prize in that residue. The government finds it difficult to reconcile such practice

with the objective of the Act relating to the fairness and openness of gambling. At the same time, the Department recognises that this is established industry practice and has been for some time, and that to amend this practice would involve considerable compliance costs for industry. The Department has, therefore, proposed on an exceptional basis to exempt gaming machines manufactured before 1 September 2007 from the requirement to return all prizes in full, and a residue of up to 99p will be permitted. Where machines currently round up prizes they will already be complying with the new regulations.

#### *Display of information*

4.33 The Department's approach to regulations on this issue is to limit any requirements to information that we regard as fundamental to the licensing objectives. This means: information that impacts on the fairness of the gambling offer – essentially information to enable people to make an informed choice about whether to gamble; and, information relating to the protection of children and vulnerable people. It will be more appropriate and more flexible for requirements on the display of information relating to the detailed conduct of the gambling opportunity to be dealt with in the Gambling Commission's technical standards.

4.34 The current BACTA and BBPA voluntary codes, and the ABB code of practice on FOBTs, already contain a range of requirements relating to the display of information, and these requirements have been used as a basis for the Department's approach.

4.35 The only completely new requirement contained in the Department's proposals, at the request of licensing authorities, is that the category of gaming machine must be displayed on the machine. We do not consider that this is likely to impose a significant new burden on the existing machine. We imagine that most operators will ensure compliance with this requirement by adding a sticker to machines, and should not therefore present more than a nominal cost to industry.

#### *Receiving and claiming prizes*

4.36 As noted above, the Department believes that it is in the interests of the fair and open conduct of gambling that people who have paid money to gamble on machines should be able to claim and collect any prize to which they are entitled at the time that they win.

4.37 Currently, money prizes are treated differently on All Cash AWP (s.34(5E)) machines and Jackpot (s.31) machines:

- on AWPs, money prizes must be paid out, cannot be credited to the "bank" and cannot be transferred from a separate "win meter" to the "bank", but must be physically reinserted as fresh stakes (s.34 Gaming Act 1968);
- on jackpot machines, money prizes can be credited to the "bank" and can be transferred from there into the "play meter" in £2 tranches, in

the same way as money which has been deposited by the player (s.31 Gaming Act 1968).

4.38 The proposal simplifies the current rules relating to money prizes so that all categories of machine where stakes are taken from committed sums, rather than deposited sums, are treated in the same way as jackpot machines are currently, i.e. there is no requirement to physically reinsert sums won. All prizes may instead be credited to the deposited funds (e.g. the bank), from where the player can elect either to collect the money, or transfer it to the play meter from where further charges for use can be paid. The machine manufacturer will have the choice of which option to adopt.

4.39 This proposal delivers the Government's commitment to extend the changes that were made for higher stake/prize machines, relating to the way winnings are treated (by the 2003 regulatory reform order) to all categories of machine which take their funds from committed funds.

4.40 These regulations for the first time create the potential for manufacturers to develop machine configured around a single deposited meter. Where manufacturers opt for such a design, the government considers that an equivalent safeguard to the one which already exists on Jackpot machines (where customers have to elect to transfer the win from the bank to the play meter) is desirable. It has therefore proposed that the player must be given the option of collecting win, before the win is credited back to deposited funds.

#### *Autoplay functions*

4.41 The Government has concerns about autoplay because it allows players to gamble potentially large amounts of money at the single press of a button. Looking in particular at the third licensing objective of protecting children and other vulnerable people from being harmed or exploited by gambling, there is a strong case to argue that autoplay functions should be banned from all machines.

4.42 However, the Department also recognises that autoplay has become an established feature of many current gaming machines and that an outright ban on autoplay functions would have significant compliance implications for industry.

4.43 The proposals therefore seek to strike a balance between realising the social protection objective of the Act and the needs of the industry. This has been achieved by proposing to continue to allow autoplay functions on machines configured like existing Section 31 and 34 machines, where customers are required to transfer money on the machine to the point at which a charge for use can be paid (normally from the "bank" to the "play meter"), but proposing a ban on autoplay on single meter, deposited money machines, which will enable customers to pay charges for use directly from deposited money without this additional intervening step.

4.44 These proposals are complemented by the Gambling Commission's provisions on game cycle speed as set out in its Technical Standards. The Department believes that this combination of measures offers adequate protection to vulnerable players, whilst at the same time accommodating the industry's ability to offer autoplay functions.

## 5. Costs and benefits

5.1 The Department is aware that more information is required to complete a full cost/benefit analysis of these various proposals. We have made specific requests to industry in the formal consultation paper for evidence where there is a lack of such information. On the basis of this and feedback gained in previous and ongoing consultation, it should be possible to build an improved picture of the sectors and groups affected by the proposals.

5.2 These regulations should be viewed in the context of the Government's general approach under Part 10 of the Act. The Act balances the deregulation of industry with a corresponding code of social responsibility, and regulations achieving this under Part 10 should be read together. For example, the regulations under section 236 setting out the maximum stake and prize limits must be viewed in the context of regulations under section 240 setting out the circumstances in which a gaming machine is made available for use.

### Sectors and groups affected

5.3 The Department's approach throughout the development of these regulations has been to ensure that the overwhelming majority of existing machines currently operating in accordance with the requirements of Part III of the Gaming Act 1968 will require little or no adjustment to be able to comply with the new regulations from 1 September.

5.4 Exact figures relating to the costs and benefits of the Department's proposals are hard to calculate because it has proved difficult to gather robust evidence, including on the size of the existing gaming machine estate. Based on the available evidence, the table below sets out the numbers of machines currently in operation, which will have to comply with the new regulations from 1 September 2007:

Type of machine	Total estimated number of machines in Great Britain
Category A (no current equivalent)	0
Jackpot (Category B1, B3, B4)	25,000
FOBT (Category B2)	25,000
AWP (Category C and D)	192,000
Pushers, crane grabs etc (Category D)	17,000
<b>GB machine estate (inc. FOBTs)</b>	<b>259,000</b>

## Benefits

5.5 This is the first opportunity the Government and stakeholders have been provided with to take a holistic view of the use of gaming machines since the implementation of the 1968 Act. Gaming machines have become increasingly complex in design and new legislation is now required to take account of technological advancements.

5.6 There will be social benefits as a result of the comprehensive review of the current legislation. These regulations have been drafted in accordance with the licensing objectives of the Act and contain provisions that will in particular help ensure that children and vulnerable people are protected from harm or exploitation when using gaming machines, for example by imposing limits on how much money a player may deposit on a machine in a single action.

5.7 The new regulations give manufacturers and operators new flexibility and options for configuring gaming machines for use, which create opportunities for innovation and competition. For example, the regulations will for the first time introduce a new fully regulated configuration of gaming machine to the British market in the form of the single deposit meter machine.

5.8 The table below summarises the estimates of the benefits conferred by the new regulations:

<b>Proposal</b>	<b>Number of machines affected by proposal</b>	<b>Benefits conferred</b>
<b>Limits on deposited money</b>	Up to 192,000	Increase on deposit limits for AWP (Category C) machines from £2 to £20; giving industry the opportunity to offer single meter machines for the first time
<b>Limits on committed money</b>	Up to 217,000	Increase in committed money limits from £2 to £5 (B4, C), & from £2 to £10 (B3, B2, B1)
<b>Payment methods</b>	259,000	Protections for vulnerable people from prohibition on the use of credit and debit cards
<b>Residues</b>	Up to 259,000	Affirms right of customers to retrieve all deposited funds on non-cash machines. Zero compliance costs for the industry on existing machines
<b>Display of information</b>	259,000	More information available for customers
<b>Receiving and claiming prizes</b>	259,000	Affirms right of customers to collect prizes.
<b>Autoplay</b>	Up to 217,000	Autoplay functions allowed with appropriate safeguards to protect vulnerable players

## Costs

5.9 As stated above, the overwhelming majority of existing machines currently operating in accordance with the requirements of Part III of the Gaming Act 1968 will require little or no adjustment to be able to comply with the new regulations.

5.10 However, these regulations will control the circumstances in which all the new categories of gaming machines are made available for use. Some categories of machine may therefore incur greater compliance costs than others, by virtue of the fact that they currently operate in different way from the majority. We have set out the justifications for such situations above.

5.11 Stakeholders have been encouraged in both the informal and formal consultations to provide details in response to the proposals, and to submit evidence if there are areas where proposals will involve costs or require a lead time to enable compliance.

5.12 The table below summarises the estimates of the costs complying with the new regulations:

<b>Proposal</b>	<b>Number of machines affected by compliance costs</b>	<b>Estimate of costs</b>
<b>Limits on deposited money</b>	Relatively small proportion of current estate currently using TITO technology	Awaiting response from industry
<b>Limits on committed money</b>	0	Awaiting response from industry
<b>Payment methods</b>	0	0
<b>Residues</b>	0	0
<b>Display of information</b>	260,000	Nominal - awaiting estimates from industry
<b>Receiving and claiming prizes</b>	Awaiting response from industry	Awaiting response from industry
<b>Autoplay</b>	0	0
Total cost		

5.13 The Department does not anticipate that there will be any new costs to industry as a result of the proposals under section 241.

5.14 There will be no increased administrative costs falling to the public purse as a result of the proposed policies. The Gambling Commission and licensing authorities will be responsible for monitoring compliance and this will be achieved in most cases on a cost/recovery basis.

## **6. Small firms impact test**

- 6.1 The Department estimates that many of the approximately 2000 seaside and other arcade operators (Family Entertainment Centres and Adult Gaming Centres) and approximately 650 gaming machine suppliers would be classed as small operators.
- 6.2 The regulations have been drafted in such a way as to ensure that existing machines, currently operating in accordance with the requirements of Part III of the Gaming Act 1968, should not require significant modification to be fully compliant with the new regulations under section 240. This should ensure that the impact on these smaller operators is kept to a minimum.

## **7. Competition assessment**

- 7.1 A simple competition assessment has been undertaken in line with guidance issued by the Better Regulation Executive and the Office of Fair Trading. The regulations will have no impact on competition as they will apply equally to all gaming machine operators, manufacturers and repairers as a common set of universally applicable regulations.
- 7.2 Where limited restrictions are proposed which may impact on the ability of manufacturers to take full advantage of technological development – for example the ability of manufacturers to develop autoplay functions – these restrictions will apply equally to all gaming machine manufacturers. The Government believes that this restriction is necessary on a social policy basis to reinforce the balance between player protection and gaming machine development.

## **8. Enforcement, sanctions and monitoring**

- 8.1 In terms of enforcement of these Regulations, the Gambling Commission and licensing authorities will be responsible for ensuring that gaming machines are appropriately offered for use within the legal entitlements provided by the Act. The Commission is also responsible for ensuring that machine manufacturers and suppliers comply with the new legislation.
- 8.2 Any breach of these regulations is a criminal offence which upon conviction can lead to a fine of up to £5,000 and/or a term of imprisonment not exceeding 51 weeks.

## **9. Implementation and delivery plan**

- 9.1 These regulations will be delivered by the laying of the statutory instruments as described above. The change will take effect from 1 September 2007 and all gaming machines will be expected to comply with the regulations from this date. There will be no phased implementation of the regulations either before or after 1 September 2007.

## **10. Post implementation review**

- 10.1 The Gambling Commission will monitor any impact of the change on problem gambling as part of its wider work in this area.

## 11. Summary and recommendation

11.1 We have decided to consult on the basis of Option 5 above, but would welcome representations on any of the measures outlined throughout this document. A cost/benefit analysis and subsequent recommendation will be completed following the consultation.

## 12. Declaration and publication

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs*

**Signed** .....

**Date**.....

**Minister's name, title, department**

### **Contact point**

Ben Melton

Gaming and Lotteries Team

Department for Culture Media and Sport

2-4 Cockspur Street

London

SW1Y 5DH

Tel: 020 7211 6495

Email: [ben.melton@culture.gsi.gov.uk](mailto:ben.melton@culture.gsi.gov.uk)

## Appendix 1

### Extract from the Delegated Powers Memorandum (January 2005)

#### *Clause 234: Use of machine*

*203. An important aspect of the regulation of gaming machines are the rules which control how the machine operates and is used. At present these rules are contained in the Gaming Act 1968. Experience has shown that placing the detail in primary legislation has provided an inflexible tool for this form of regulation. A recent regulatory reform order (The Regulatory Reform (Gaming Machines) Order 2003 SI 2003 No. 3275) illustrates the type of complex issue which has had to be dealt with in relation to the use of gaming machines.*

*204. the Department wishes to ensure that the regulation of gaming machines takes place in a manner which allows amendment to be made to the detailed rules relatively easily and swiftly, to respond to technological changes and commercial needs. However, it is not considered appropriate to delegate these matters to the Commission for inclusion in its codes or licence conditions. Instead, clause 234 gives the Secretary of State power to make regulations which control the circumstances in which a gaming machine (of any category) is made available for use. This will include provisions on:*

- (a) The method by which stakes may be deposited e.g. by coin or banknote, smart-card or token;*
- (b) The nature of prizes and how they may be claimed e.g. whether delivered by the machine or offered in redeemable vouchers;*
- (c) Whether and how much stakes and prizes can be rolled over between games; and*
- (d) How information is displayed on the machine.*

*205. Such regulations can include identification of matters on which a condition cannot be attached to a licence and the regulations are to be made using the negative resolution procedure. The regulations are technical in nature and it is considered that the negative procedure will provide sufficient Parliamentary scrutiny.*

438