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STATUTORY INSTRUMENTS

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**2006 No. 2686**

**VALUE ADDED TAX**

**The Value Added Tax (Gaming Machines) Order 2006**

*Made* - - - - *9th October 2006*  
*Laid before the House of*  
*Commons* - - - - *10th October 2006*  
*Coming into force* - - *1st November 2006*

The Treasury make this Order in exercise of the powers conferred by section 23(7) of the Value Added Tax Act 1994<sup>(1)</sup>:

**Citation and commencement**

1. This Order may be cited as the Value Added Tax (Gaming Machines) Order 2006 and comes into force on 1st November 2006.

**Gaming machines**

2. Section 23(6) of the Value Added Tax Act 1994<sup>(2)</sup> (gaming machines: interpretation) is amended as follows—

- (a) in the opening words, for “In this section—” substitute “For the purposes of this section —”;
- (b) in paragraph (a) (“gambling”), for sub-paragraphs (i) and (ii) substitute—
  - “(i) playing a game of chance for a prize, and
  - (ii) betting”;
- (c) in paragraph (e) (“real”), for “that Act” substitute “the Gambling Act 2005”<sup>(3)</sup>;
- (d) in paragraph (f) (“game of chance”), for “has such meaning as may be prescribed by the Treasury by order” substitute  
“includes—
  - (i) a game that involves both an element of chance and an element of skill,
  - (ii) a game that involves an element of chance that can be eliminated by superlative skill, and”

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<sup>(1)</sup> 1994 c.23. Section 23(7) was inserted by section 16(5) of the Finance Act 2006 (c.25).  
<sup>(2)</sup> Section 23 was extensively amended by section 16 of the Finance Act 2006.  
<sup>(3)</sup> 2005 c.19.

- (iii) a game that is presented as involving an element of chance, but does not include a sport,”;
- (e) insert at the end—
  - “(h) “prize”, in relation to a machine, does not include the opportunity to play the machine again,
  - (i) a person plays a game of chance if he participates in a game of chance—
    - (i) whether or not there are other participants in the game, and
    - (ii) whether or not a computer generates images or data taken to represent the actions of other participants in the game.”.

9th October 2006

*Dave Watts*  
*Kevin Brennan*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which comes into force on 1st November 2006, updates the definition of a gaming machine in section 23 of the Value Added Tax Act 1994. Section 23 restricts the amount upon which VAT is charged to the net takings after deduction of any winnings paid out by the machine.

Article 2 of this Order substitutes a new definition of gambling. The first element of the existing definition (gaming) refers to section 6 of the Gambling Act 2005. This is replaced by a definition that refers to a “game of chance”. There is a new definition of a game of chance, as well as of playing a game of chance. The existing definition of game of chance refers to the Gaming Act 1968 definition, which is to be repealed by appointed day order made under the Gambling Act 2005.

Only games of chance played for a prize are within the definition of gambling. Free plays are not prizes for this purpose.

The other element of the existing definition of gambling (betting) is no longer defined.

The above changes mirror amendments made to the exemption from VAT of betting, gaming and lotteries by the Value Added Tax (Betting, Gaming and Lotteries) Order 2006.

A full regulatory impact assessment has not been produced for this instrument as it has negligible impact on the costs of business, charities or voluntary bodies.