

**EXPLANATORY MEMORANDUM TO  
THE GAMBLING (OPERATING LICENCES AND SINGLE-MACHINE PERMIT  
FEES) (AMENDMENT) REGULATIONS 2007**

**2007 No. 269**

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.

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

2. **Description**

The Gambling (Operating Licences and Single-Machine Permit Fees) Regulations 2006 (SI 2006/3284) (“the 2006 Regulations”) prescribe fees payable to the Gambling Commission under the Gambling Act 2005 (“the Act”) for the grant and maintenance of operating licences and single-machine supply and maintenance permits. These Regulations amend the annual fees for non-remote operating licences (payable only from September 2007), to correct errors contained in the 2006 Regulations.

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

The 2006 Regulations were the first under the Act prescribing fees relating to operating licences. These amending Regulations are being provided free of charge to all known recipients of the 2006 Regulations.

4. **Legislative Background**

- 4.1 The explanation of the legislative background set out in the explanatory memorandum to the 2006 Regulations remains unchanged and should be referred to for a full explanation in respect of these Regulations.

- 4.2 In essence, the Act establishes a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting, and contains powers for the Secretary of State to prescribe various fees to be paid to the Gambling Commission for licensing and regulatory functions. In relation to operating licences, which are a principal form of permission authorising commercial gambling under the Act, the main fees are:

- 4.2.1 application fees, payable by anyone applying for an operating licence; and

- 4.2.2 annual fees, payable annually by every operating licence holder to meet the costs of the Commission’s compliance and enforcement activities in maintaining the licence.

- 4.3 The Act distinguishes between remote and non-remote operating licences. A remote operating licence is one where facilities for gambling are provided by means of remote communication e.g. the internet, telephone or television. Non-remote operating licences involve no such remote provision, and therefore concern the provision of gambling facilities from premises, often known as “bricks and mortar” gambling.
- 4.4 These Regulations concern *annual fees* only, in relation to all classes of *non-remote operating licence*. The classes are established by regulation 4 of the 2006 Regulations, and regulations 5 and 6 and Schedule 1 of those Regulations divide the classes into different fee categories. Regulation 8 and Schedule 3 prescribe the relevant annual fees that these Regulations amend.

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

These Regulations apply to England & Wales and Scotland.

## **6. European Convention on Human Rights**

As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The explanation of the policy background set out in the explanatory memorandum accompanying the 2006 Regulations is unchanged so far as the Department’s approach to fee-setting is concerned.
- 7.2 In particular, the 2006 Regulations establish an arrangement whereby annual fees payable for non-remote operating licences will be discounted by 25% in their first year. This reflects the fact that elements of the Gambling Commission’s work carried out during the licensing application process will not need to be replicated for the first annual fee, thereby leading to lower costs of service provision. Regulation 8(3) of the 2006 Regulations establishes this principle.
- 7.3 Schedule 3 to the 2006 Regulations contains the annual fees payable for all categories of non-remote operating licence. However, the Department failed to realise that the fees prescribed in Schedule 3 had already had a 25% discount applied to them. This was an administrative error and not what was intended.
- 7.4 The Department is satisfied that it consulted properly on the annual fee discount prior to the 2006 Regulations being made. In the joint DCMS-Gambling Commission fees consultation document (July 2006) the published fees at Appendix 1 were flagged as already containing the 25% discount (see paragraph 49). In transposing those figures into Schedule 3 to the 2006 Regulations the Department failed to realise that the effect of regulation 8(3) would be to introduce the 25% discount twice. Consequently, these Regulations amend Schedule 3 to the 2006 Regulations to show the proposed full annual fees for non-remote licences, to which a 25% discount will then be applied in the first year of operation by virtue of regulation 8(3).

- 7.5 The Department does not believe that any individual or business has been prejudiced by these errors. None of the annual fees affected by these amendments are payable before 1<sup>st</sup> September 2007. The corrected fees will be due within 30 days of the date of issue of each operating licence (regulation 26 of the 2006 Regulations). Even where operators make advance applications for licences in the run up to September 2007, the date of issue for the licence will be no earlier than 1<sup>st</sup> September 2007.
- 7.6 The Department will provide information on its website about the changes that these amending Regulations make to the 2006 Regulations. These amending Regulations are being made available free of charge to all known recipients of the 2006 Regulations.

## **8. Impact**

The Regulatory Impact Assessment which accompanied the 2006 Regulations is not affected by this amendment and should be referred to in respect of these Regulations (RIA accompanying SI 2006/3284).

## **9. Contact**

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