

EXPLANATORY MEMORANDUM TO
THE GAMBLING ACT 2005 (OPERATING LICENCE CONDITIONS)
(AMENDMENT) REGULATIONS 2010

2010 No. 774

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 These Regulations amend the Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 (S.I. 2007/2257) (“the 2007 Regulations”).

2.2 The purpose of the amendments is to increase the maximum participation fee for prize gaming in bingo premises, and the maximum amounts that may be paid in money prizes in respect of such gaming.

2.3 The increases are effected by amending the limits on participation fees and money prizes set out in the 2007 Regulations. These limits apply as conditions attached to bingo operating licences by virtue of sections 291(2) and 78 of the Gambling Act 2005 (c. 19) (“the 2005 Act”).

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

None.

4. Legislative Context

4.1 The 2005 Act established a new system of regulation for all gambling in Great Britain apart from the National Lottery and spread betting. It came fully into force on 1 September 2007.

4.2 “Prize gaming” is defined in section 288 of the 2005 Act as gaming (see section 6) in which neither the nature nor the size of a prize played for is determined by reference to the number of players or the amount paid for or raised by the gaming.

4.2 Under section 291(1) of the Act, facilities for prize gaming may be provided in bingo halls (i.e. premises in respect of which a bingo premises licence under Part 8 of the Act has effect) without infringing the general prohibitions on providing facilities for gambling without an operating licence (section 33) or a premises licence (section 37).

4.3 The ability to provide facilities for prize gaming in reliance on section 291(1) may, however, be restricted by conditions attached to operating licences under section 75 (general conditions imposed by Commission) or section 78 (condition imposed by Secretary of State). The 2007 Regulations impose such conditions in respect of, inter

alia, participation fees (regulation 3(3)) and the amounts of money prizes that may be won (regulation 3(6)).

4.4 The current Regulations amend regulation 3(3) so that the amount charged by way of a participation fee (see section 344 of the Act) in respect of any one chance to win a prize in a particular game must not exceed £1. The previous maximum was 50 pence.

4.5 In addition, regulation 3(6) is amended with the effect that the amount of a money prize for which a particular game is played must not exceed £100 where no person under the age of 18 is allowed on the premises at any time whilst the game is being played, and £70 in all other cases. The previous limits were £50 and £35 respectively.

4.6 These amendments bring the prize gaming limits in bingo halls into line with those that apply generally (see S.I. 2009/1272), in so far as the two sets of limits apply in comparable circumstances.

5. Territorial Extent and Application

These Regulations extend to England and Wales, and to Scotland.

6. European Convention on Human Rights

The Minister for Sport, Gerry Sutcliffe MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2009 are compatible with the Convention rights.”.

7. Policy background

7.1 In June 2009 the limits on participation fee and prize levels in respect of prize gaming generally under the 2005 Act were increased by the Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009 (S.I. 2009/1272), which revoked and replaced S.I. 2007/1777.

7.2 Those increases followed the consultation on stake and prize levels for category C and D gaming machines (see section 236 of the 2005 Act), in which a number of respondents submitted proposals for increases in prize gaming limits. These proposals were based on the fact that the issues around prize gaming (in terms of the risk to the licensing objectives (see section 1 of the 2005 Act) and the needs of small businesses (such as seaside arcades)) were comparable to those raised in the consultation in connection with category C and D machines (which have the lowest levels of stakes and prizes out of all the machine categories).

7.3 The Government accepted this, and increased the participation fee and prize levels for prize gaming accordingly.

7.4 Since June 2009 the Government has discussed with stakeholders whether the new prize gaming limits ought to be made applicable to prize gaming in bingo halls. This could not be done in the instrument in June, as the limits applicable in bingo halls could only be changed by an affirmative resolution instrument under sections 291 and 87 of the 2005 Act. (The June 2009 changes were by negative instrument under a separate power).

7.5 Following those discussions, the Government concluded that there was no reason why limits for prize gaming comparable to those set out in the June regulations should not be applicable in bingo halls, as the issues raised by both are broadly comparable (in terms of the risk to the licensing objectives and the needs of the industry) to those raised by category C and D gaming machines.

7.6 The Government is of the view that the difference in maximum prize levels, introduced in regulation 3(6) of the 2007 Regulations, between games played in the presence of children and those that are not, ought to be preserved (see paragraph 7.19 of the Explanatory Memorandum to the 2007 Regulations). The current regulations therefore increase the latter prize limit to £100, whilst the former, in line with the June 2009 changes, is increased to £70.

8. Consultation outcome

8.1 The Regulations are based on discussions with stakeholders between June and November 2009, as described above.

8.2 These discussions did not reveal any substantial opposition to the proposal that the limits for bingo halls be brought in line with those for prize gaming generally.

9. Guidance

These Regulations will not be the subject of separate guidance.

10. Impact

An impact assessment has been produced in respect of these Regulations, and is available alongside them on the opsi website (www.opsi.gov.uk).

11. Regulating small business

11.1 The Regulations are not expected to have any adverse impact on small firms.

11.2 The increases in fee and prize levels will be of assistance to firms which operate bingo halls.

12. Monitoring & review

The impact of the amendments made by these Regulations will be kept under review by the Department for Culture, Media and Sport.

13. Contact

Alistair Boon at the Department for Culture, Media and Sport (tel: 020 7211 6486 or email: alistair.boon@culture.gsi.gov.uk) is available to answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:
Department for Culture,
Media and Sport

**Impact Assessment of the Gambling Act 2005
(Operating Licence Conditions) (Amendment)
Regulations 2009**

Stage: Draft SI

Version: 2

Date: 12 November 2009

Related Publications: Impact Assessment for the Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009

Available to view or download at:

<http://www.culture.gov.uk>

Contact for enquires: Alistair.Boon@culture.gsi.gov.uk (Telephone: 020 7211 6486)

What is the problem under consideration? Why is government intervention necessary?

The Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009 came into force on 11 June 2009 and increased stake and prize limits for prize gaming in line with those for category C gaming machines, that is a maximum stake of £1 and a maximum prize of £70. By virtue of the Regulations, these limits now apply to Adult Gaming Centres (AGCs), Family Entertainment Centres (FECs) and fairs.

In line with the Government's original proposal to equalise stake and prize limits in all venues permitted to offer prize gaming, secondary legislation is now required in order to apply these new limits to bingo halls. This is because unlike AGCs, FECs and fairs, the stake and prize limits for prize gaming in these premises are implemented via the Secretary of State's operating licence condition-making powers under section 78 of the Gambling Act 2005.

Government proposes to introduce a new maximum stake of £1 and a maximum prize at £70 where under-18s are permitted on the premises when a game is being played. Where under-18s are not present we propose a maximum prize of £100.

What are the policy objectives and the intended effects?

Bingo operators have traditionally offered 'prize' or 'interval' bingo (i.e. smaller, faster games run in between sessions of mainstage bingo) under prize gaming rules. This form of bingo is seen as an essential revenue stream for many licensed bingo clubs.

The bingo industry continues to face significant economic pressures and the Government wants to see operators benefit in the same way as AGCs and FECs from an uplift in stake and prize levels for prize gaming. This will enable bingo operators to maximise and develop existing revenue streams.

What policy options have been considered? Please justify any preferred option.

Prize gaming was included as part of the Government's 2008 review of stake and prize limits for category C and D gaming machines. Two public consultation exercises were held during 2008 in which the Government set out its proposals to apply the same limits to all relevant types of premises (both consultations are available on the DCMS website).

Additional legislation is now required to implement these new limits in bingo halls. The Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 put in place the following limits for prize gaming in bingo halls:

- The participation fee for any one chance to win a prize in a game that constitutes prize gaming - 50p;

- The maximum cash prize where no person under the age of 18 years is permitted to be on the premises when a game is in progress - £50;
- The maximum cash prize in all other cases - £35;
- The maximum aggregate total of participation fees to participate in any one game - £500;
- The maximum aggregate amount or value of prizes (both cash and non-cash) in any game - £500.

The Government proposes to maintain this same ratio for stake and prize limits in order to ensure that bingo clubs can continue to maintain existing revenue streams. The maximum levels for aggregate totals of participation and value of prizes will remain unchanged.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

One year after implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Gerry Sutcliffe

..... Date: 14th December 2009

Summary: Analysis & Evidence

Policy Option:		Description:			
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups': Only bingo operators will be affected by these Regulations. There are 641 bingo clubs licensed by the Gambling Commission. As these already offer prize gaming there will be only minimal one-off or additional costs covering the cost of engineers visiting clubs to amend the limits on prize gaming equipment.		
	One-off (Transition)	Yrs			
	£ Not known				
	Average Annual Cost (excluding one-off)				
£ Not known		Total Cost (PV)		£ Not known	
Other key non-monetised costs by 'main affected groups': It will be down to individual operators to advertise higher stake and prize limits for prize gaming					
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Bingo operators offer 'interval bingo' under prize gaming rules. It is an essential revenue stream for many operators, accounting for up to 20% of bingo sales in some clubs. Key benefits will be i) enabling clubs to maintain an existing revenue stream ii) enable clubs to develop a better product		
	One-off	Yrs			
	£ Not known				
	Average Annual Benefit (excluding one-off)				
£ Not known		Total Benefit (PV)		£ Not known	
Other key non-monetised benefits by 'main affected groups' None.					
Key Assumptions/Sensitivities/Risks					
Some groups with concerns about problem gambling may argue that the proposed increase could increase the risk of problem gambling. Such risks will be mitigated by stringent regulations and Gambling Commission technical standards and codes of practice governing prize gaming, which have been developed to protect the consumer.					
Price Base Year	Time Period Years	Net Benefit Range (NPV) £ N/A		NET BENEFIT (NPV Best estimate) £ N/A	
What is the geographic coverage of the policy/option?				Great Britain	
On what date will the policy be implemented?				4 TH Quarter 2009/10	
Which organisation(s) will enforce the policy?				Gambling Commission	
What is the total annual cost of enforcement for these organisations?				£ none	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				Yes	
What is the value of the proposed offsetting measure per year?				£ n/a	
What is the value of changes in greenhouse gas emissions?				£ n/a	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)			Micro none	Small none	Medium none
				Large none	

Are any of these organisations exempt?	No	No	No	No
Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)	
Increase of	£ N/A	Decrease	£ N/A	Net Impact £ N/A

Key:

Annual costs and benefits:

(Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

General Policy Background

On 25 June 2008 Gerry Sutcliffe MP, the Minister with responsibility for gambling, announced that DCMS would bring forward a review of Gaming Machine Stakes and Prizes planned for 2009 to 2008, in respect of low-stake, low-prize Category C and D machines. This was in order to provide economic assistance to family entertainment centres and other sectors of the gaming machine industry.

Originally, prize gaming was not within the scope of the Minister's announcement or the initial consultation that followed it. However, in response to the consultation, a number of stakeholders submitted proposals in this area and the Department decided to include prize gaming within the 2008 review of category C and D gaming machines.

The Department initially proposed to set participation fee and cash prize limits in any premises permitted to offer prize gaming, including bingo halls, at 60p and £60 respectively, in line with the initial proposed stake and prize limits for category C machines. The remaining monetary limits on prize gaming would remain unchanged. These proposals were consulted on as part of the five options for category C and D machines between 5 September and 31 October 2008. After considering responses from the industry, faith groups and other stakeholders, and receiving representations from a number of trade bodies, the Government then revised its proposals in respect of new stake and prize limits. A further consultation was launched on 22 December 2008 in order to give all stakeholders the opportunity to comment again.

With regards to prize gaming, the Department decided to retain its proposal to equalise stake and prize limits in Adult Gaming Centres, Family Entertainment Centres and other venues permitted to offer prize gaming with those for Category C machines i.e. the maximum participation fee would be £1, and the maximum cash prize would be £70 in both types of arcade. The maximum aggregate prize would remain unchanged at £500 in all cases.

These new limits were introduced into Adult Gaming Centres (AGCs), Family Entertainment Centres (FECs) and fairs through the Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009, which came into force on 11 June 2009.

However, unlike AGCs, FECs and fairs, the stake and prize limits for prize gaming in bingo halls are implemented via the Secretary of State's operating licence condition-making powers under section 78 of the Gambling Act 2005. Therefore, separate legislation is required to implement these new limits in bingo halls.

Prize Gaming in Bingo Halls

Bingo operators have traditionally offered 'prize' or 'interval' bingo (i.e. smaller, faster games run in between sessions of mainstage bingo) under prize gaming rules. Interval bingo is seen as an essential revenue stream for many licensed bingo clubs. However, unlike AGCs, FECs and fairs, the stake and prize limits for prize gaming in

bingo halls are implemented via the Secretary of State's operating licence condition-making powers under section 78 of the Gambling Act 2005.

Under the 2005 Act, bingo halls are able to offer any form of bingo by virtue of their bingo operating licence. This includes both cash bingo and what had become known in the industry under the old legislation as 'prize' or 'interval' bingo. However, Section 21 of the Gaming Act 1968 conferred certain entitlements on bingo halls to offer gaming for prizes which were not completely covered by the new bingo operating licence. Section 291 of the 2005 Act filled this gap by permitting holders of bingo operating licences to offer prize gaming, provided the gaming complied with any general conditions attached to the bingo operating licence by the Secretary of State.

The Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 put in place the following limits for prize gaming in bingo halls:

- The participation fee for any one chance to win a prize in a game that constitutes prize gaming - 50p;
- The maximum cash prize where no person under the age of 18 years is permitted to be on the premises when a game is in progress - £50;
- The maximum cash prize in all other cases - £35;
- The maximum aggregate total of participation fees to participate in any one game - £500;
- The maximum aggregate amount or value of prizes (both cash and non-cash) in any game - £500.

The Government is now bringing forward legislation to apply these limits to bingo halls by amending the relevant conditions attached to bingo operating licences. It intends to retain the same ratio of maximum prize levels introduced in 2007 and therefore proposes to implement a maximum stake of £1 and a maximum prize at £70 where under-18s are permitted on the premises when a game is being played. Where under-18s are not present a maximum prize limit of £100 is proposed. The Government believes this is a sensible and proportionate increase that will not prejudice the licensing objectives of the Gambling Act 2005 and will ensure that prize gaming remains a low level form of gaming.

Results of the specific impact tests are set out below.

Competition assessment

A simple competition assessment has been undertaken in line with Better Regulation Executive guidance.

The true extent of the wider prize gaming market is not known. The limits on prize gaming which are considered necessary from a social policy perspective have always been intended to mitigate significant commercial exploitation in order to retain the character of prize gaming as a low level gambling activity.

The market is by the bingo industry and small operators, as well as some larger holiday parks and theme parks which might have obtained gaming permits. This proposal will ensure operators of bingo halls can compete on an equal basis with other sectors. It is unlikely to have any structural effects on wider the gambling industry. It may encourage greater competition by allowing operators to offer an enhanced prize gaming offer to potential customers.

Small Firms

The measure will have no adverse impact on small firms.

Legal Aid

No impact.

Sustainable Development

No impact.

Carbon Assessment

No impact.

Other Environment

No impact.

Health Impact Assessment

We have considered the health and well-being screening assessments in line with current DoH guidance and have concluded that a full health impact assessment will not be required. The proposed measure will not have any significant health impact, either on the whole population, a major sub group of the population, or in terms of severity of impact.

It should be mentioned that bingo halls fulfil an important social function in many local communities, particularly for older people, where the social aspects of regular visits to play bingo contribute significantly towards their overall well-being. Enabling operators to develop and maximise different revenue streams will allow many clubs threatened by difficult trading conditions to continue operating in communities.

Race Equality

No impact.

Disability Equality

No impact.

Gender Equality

No impact.

Human Rights

The provisions of the Regulations are compatible with the European Convention on Human Rights.

Rural Proofing

Bingo halls in rural and semi-rural areas will be able to benefit from the measure in the same way as their urban counterparts.

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	✓	
Small Firms Impact Test	✓	
Legal Aid	✓	
Sustainable Development	✓	
Carbon Assessment	✓	
Other Environment	✓	
Health Impact Assessment	✓	
Race Equality	✓	
Disability Equality	✓	
Gender Equality	✓	
Human Rights	✓	
Rural Proofing	✓	

ALL RESULTS IN EVIDENCE BASE SECTION. (No annexes)