



House of Commons  
Regulatory Reform Committee

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**Proposal for the  
Regulatory Reform  
(Gaming Machines)  
Order 2003**

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**Thirteenth Report of Session 2002–03**





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Thirteenth Report of Session 2002–03

*Report, together with formal minutes and  
appendices*

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## The Regulatory Reform Committee

The Regulatory Reform Committee is appointed to consider and report to the House of Commons on proposals for regulatory reform orders under the Regulatory Reform Act 2001 and, subsequently, any ensuing draft regulatory reform order. It will also consider any "subordinate provisions order" made under the same Act.

### Current membership

Mr Peter Pike (*Labour, Burnley*) (Chairman)  
Mr Russell Brown (*Labour, Dumfries*)  
Brian Cotter (*Liberal Democrat, Weston-super-Mare*)  
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### Powers

The full constitution and powers of the Committee are set out in House of Commons SO No 141, available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/parliamentary\\_committees/regulatoryreform\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/regulatoryreform_committee.cfm). A list of Reports of the Committee in the present Parliament is at the back of this volume.

### Committee staff

The current staff of the Committee are Martyn Atkins (Clerk), Fiona McLean (Committee Specialist), Brian Dye (Committee Assistant) and Liz Booth (Secretary).

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## Summary

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The purpose of the proposed order is to amend the Gaming Act 1968 in respect of two categories of gaming machine:

- jackpot machines (found in licensed casinos, bingo clubs and registered clubs) and
- higher-value amusement-with-prizes (AWP) machines (found in a small number of casinos, and also in clubs, pubs, betting shops and over-18 sections of arcades).

At present these machines can accept coins only in payment for games (though higher-value AWP machines may also accept tokens), and can pay out only by means of coins.

The purpose of the proposal is to:

- allow jackpot machines to accept banknotes and payments by means other than cash (such as smartcards), as well as in coins, and to give out prizes in banknotes and in non-cash forms, as well as in coins
- allow higher-value AWP machines to accept payments and to give out prizes in banknotes, as well as in coins
- enable a player's winnings on jackpot machines to be retained for future play, if the player wishes, without the player having to reinsert money into the machine, and
- dispense with the implication, in respect of both types of machine, that they should be able to accept payment for a single play.

### The Committee's conclusions

The Committee believes that the proposal represents an appropriate use of the regulatory reform procedure to remove restrictions preventing the application of modern money-handling technologies to gaming machines. It considers that the protections to be provided by the draft order and its accompanying Gaming Board guidelines are in general sufficient. It has identified a number of concerns, as follows:

The Committee considers that the provision of free-standing smartcard readers, to obviate the necessity of a player having to insert a smartcard into a gaming machine to discover how much credit remained on the card, would provide a form of protection for the player. It believes the Gaming Board guidelines should be amended so as to provide that a player inserting a card into a machine to receive a readout of a smartcard balance should not receive any inducement to play the machine until money has been committed to play. (*Paragraphs 114 to 118.*)

The Committee is concerned that Gaming Board guidelines will allow the retention of small cash residues on a jackpot machine's bank meter, even when a smartcard has been used to play a machine. It considers that technological developments in the gaming industry should in this instance operate in favour of the user of the machine and expects

Gaming Board guidelines to reflect this. (*Paragraphs 119 to 123.*)

The Committee has identified an apparent incompatibility between the draft order and the Gaming Board guidelines in respect of the redemption of smartcards, which it draws to the Department's attention. (*Paragraphs 125 to 126.*)

The Committee considers that research on the effects of the new types of gaming machine payment methods on gambling behaviour and problem gambling should be undertaken. (*Paragraphs 134 to 143.*)

The Committee believes that the draft order as presently drafted is not sufficiently clear in its application to higher-value AWP machines, and has recommended that it be redrafted to stipulate that higher-value AWP machines may accept only coins and banknotes as payment for play. (*Paragraphs 156 to 160.*)

# 1 Report under Standing Order No. 141

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1. The Regulatory Reform Committee has examined the proposal for the Regulatory Reform (Gaming Machines) Order 2003 in accordance with Standing Order No. 141. On the evidence before us, we recommend that the proposal be amended before a draft order is laid before the House.

## 2 Introduction

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2. On 13 March 2003 the Government laid before Parliament the proposal for the Regulatory Reform (Gaming Machines) Order 2003 in the form of a draft of the order and an explanatory memorandum from the Department for Culture, Media and Sport (the Department).<sup>1</sup> The proposed regulatory reform order would amend the Gaming Act 1968 (the 1968 Act) by removing restrictions on the way in which money can be paid into, and prizes paid out of, certain categories of gaming machine. The 1968 Act would be amended in order to:

- allow certain gaming machines to accept payment for play by means other than by coin, and pay out in non-cash means
- allow certain categories of machine to retain a player's winnings in the machine for further play, and
- dispense with the requirement that certain gaming machines must be able to accept payment for a single play.

3. The House has instructed us to examine the proposal against the criteria specified in Standing Order No. 141(6) and then, in the light of that examination, to report whether the Government should proceed, whether amendments should be made, or whether the order should not be made.<sup>2</sup>

4. Our discussion of matters arising from our examination is set out below. Where a criterion specified in Standing Order No. 141(6) is not discussed in the report, this indicates that we have no concerns to raise about that criterion. In the course of our examination, we requested further information from the Department about a number of issues relating to the proposal. The Department's response is reproduced at Appendix B.

5. The Committee was assisted in its consideration of the proposal by a demonstration, arranged by the trade association BACTA, of a prototype gaming machine which could be legally operated in Great Britain should the draft order be made. We are grateful to Mr Rolf Nielsen, of Gamestec Leisure Ltd, and Mr Bos Anderson, of Bell-Fruit Games Ltd, for their assistance in demonstrating the prototype to us.

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1 Copies of the proposal are available to Members of Parliament from the Vote Office and to members of the public from the Department. The proposal is also available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/regulation/act/proposals.htm>

2 Standing Order No. 141(2)

## 3 Background

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6. The Government's policy objective in proposing this draft order is to change the way in which money can be paid into and out of certain categories of gaming machine, namely jackpot machines and higher-value amusement-with-prizes (AWP) machines. The Department states that this reform would allow "more flexibility for customers and operators."<sup>3</sup> It also proposes to increase the monetary amounts which may be inserted into such gaming machines at any one time, and to relax two present restrictions on the operation of such machines: one which requires a jackpot machine to pay out winnings immediately, and one which in effect requires all gaming machines to accept payment for a single play.

7. The Government proposes to make more wide-ranging reforms to the law on gambling by means of a Gambling Bill, which would replace the 1968 Act. This follows the independent review of gambling law carried out by Sir Alan Budd, the results of which were published in March 2002.<sup>4</sup> The Department intends the Bill to provide a major restructuring of the present systems of licensing, control and classification of gaming machines. The proposed new categories of gaming machine to be established by means of the Bill are set out in paragraphs 43 to 47 of the explanatory statement. In respect of the present proposal, the Department expects that the Bill will replicate the effect of the proposed reform of gaming machine payment methods.

### The existing legislation

8. Part III of the 1968 Act permits only three types of gaming machine which can accept money for play and pay out prizes. It also sets maximum stakes and prizes for each type of machine: the Secretary of State may vary these maxima by regulations. The three types of machine are set out below.

9. **Jackpot machines** are found in licensed casinos, bingo clubs and registered clubs. The maximum stake a player can insert for a single play is presently 50p.<sup>5</sup> The maximum prize which a jackpot machine may pay out is determined according to its location: £2000 in a casino, £1000 in a bingo club, and £250 in a registered club.<sup>6</sup> The industry estimates that there are at present 26,200 jackpot machines in operation in clubs and casinos in Great Britain, and a further 200 in operation in licensed bingo halls.

10. **Higher-value amusement-with-prizes (AWP) machines** are also found in some clubs and casinos as well as in bingo halls, and may additionally be found in adult-only environments, such as pubs, betting shops and areas of amusement arcades which are restricted to over-18s. They are sometimes known as 'all-cash' AWP machines, as they are presently required to pay out winnings in cash rather than tokens. The maximum stake a

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3 Explanatory statement, para 2

4 *A Safe Bet for Success: modernising Britain's gambling laws*, Department for Culture, Media and Sport, March 2002

5 Section 31(3) of the 1968 Act

6 Regulations made by the Secretary of State under section 31(5) of the Act

player can insert for a single play is 30p.<sup>7</sup> The maximum prize which a higher-value AWP machine may pay out is £25.<sup>8</sup>

11. The industry estimates that there are 166,300 higher-value AWP machines in operation in Great Britain. This total is broken down by location as follows:

<b>Category of site</b>	<b>Total number of machines per category*</b>	<b>Estimated number of machines per site</b>
Liquor licensed premises	74,700	1.3
Licensed betting offices	14,600	1.8
Inland centres	23,700	29.5
Seaside arcades	17,300	18.0
Licensed bingo clubs	27,300	41.1
Clubs and casinos	0*	1.3
Motorway services	1,300	15.0
Other outlets	7,400	n/a
<b>Total</b>	<b>166,300</b>	

\* Figures have been rounded to the nearest 100

Source: Regulatory Impact Assessment (explanatory statement, annex B)

12. **Lower-value amusement-with-prizes (AWP) machines** are found in family arcades, cafes and leisure centres with a local authority permit. The maximum stake a player can insert for a single play is 30p.<sup>9</sup> The maximum prize which a lower-value AWP may pay out is presently £5 in cash or £8 in tokens.<sup>10</sup> The Department has indicated that the proposed regulatory reform order is not intended to affect lower-value AWP machines.

## Extent of the proposal's application

13. The 1968 Act, which the Government seeks to amend by means of the proposal, extends to England, Wales and Scotland. The regulation of gaming in Wales and Scotland is a matter reserved to the Secretary of State. The proposal would therefore have effect across the whole of Great Britain.

7 Section 34(2) of the 1968 Act

8 Sections 34(5C) and (5D) of the Act, as amended by order made by the Secretary of State

9 Section 34(2) of the 1968 Act

10 Section 34(3) of the 1968 Act

## 4 Purpose of the proposal

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14. The proposal is intended to allow more flexibility for the players and operators of jackpot and higher-value AWP machines.

15. The changes it proposes in respect of **jackpot machines** are as follows:

- a) enabling such machines to accept payment by banknotes and by means other than cash, such as smartcards, as well as by coins
- b) allowing such machines to pay out prizes in banknotes and in non-cash form
- c) dispensing with the requirement that such machines should be able to accept payment for a single game
- d) allowing players, at their discretion, to retain winnings in such machines for further play (jackpot machines are presently required to pay out all winnings automatically).

16. The changes it proposes in respect of **higher-value AWP machines** are as follows:

- a) enabling such machines to accept payment by banknotes and by coins, but not by any non-cash means
- b) allowing such machines to pay out prizes in banknotes as well as coins, but not in any non-cash form, and
- c) dispensing with the requirement that such machines should be able to accept payment for a single game.

The proposal would *not* allow higher-value AWP machines to store winnings for use in further play.

17. The Government initially envisaged reforming the regulatory regime applying to higher-value AWP machines in the same way as its proposed reforms to the regime applying to jackpot machines. To amend the law in this way would, however, involve amending provisions of the 1968 Act which were amended less than two years previously (in December 2001), and would therefore be prohibited under section 1(4) of the Regulatory Reform Act 2001 (the ‘two-year rule’). This issue is discussed further at paragraphs 31 to 36 below.

### Operation of the new gaming machine systems

18. The Department intends that the operation of the new machines is to be governed partly by the law set out in the 1968 Act as amended by the proposal, and partly by means of non-statutory and non-binding guidelines issued by the Gaming Board of Great Britain, which already issues guidelines for the operation of gaming machines which operate under the 1968 Act. The Gaming Board is a statutory body established under the 1968 Act charged with the regulation of gaming and lotteries in Great Britain. The issue of the Gaming Board guidelines is discussed further at paragraphs 106 to 133 below in relation to necessary protections.

19. The Department has set out in detail how it expects the new systems to work for machines accepting smartcards and/or banknotes, as appropriate, and paying out by means of credit notes, tokens, cheques, smartcard credits and/or banknotes, in addition to cash. A detailed explanation of the intended operation of these systems is set out in paragraphs 74 to 93 of the explanatory statement.

### ***Play meters and bank meters***

20. The Government proposes that most machines accepting smartcards and/or banknotes would be required to have two separate meters:

- the **play meter**: a meter displaying the sum committed to play, which could not necessarily be retrieved on demand
- the **bank meter**: a meter displaying the sum stored in the machine (both initial credits and winnings), which could either be committed to play or retrieved on demand.

21. The player would have to commit no more than £2 of the value inserted into the machine to playing the game at any one time, and could commit less. The remainder of the value inserted would be stored on the bank meter. The player could commit further money to play by transferring up to £2 at a time from the bank meter to the play meter. The exact sum which the player could switch from the bank meter to the play meter would be determined by the manufacturer and the operator, who could either fix a sum of up to £2, or could offer the player a choice of sums not exceeding £2.

22. The player would be able to use the sum on the play meter to play the game, at the standard cost of a single play (that is, up to 30p for a higher-value AWP and up to 50p for a jackpot machine). When the amount of credit remaining on the play meter was not sufficient to pay for a single play, the player would be able *either* to commit a further tranche of up to £2 from the bank meter to the play meter, *or* to collect the sum displayed on the bank meter (subject to the possible retention in the machine of sums less than £1).

23. The player would not necessarily be able to collect the residue on the play meter if it were less than the cost of a single play. This residue would remain on the play meter and would be available for the next player to use.

### ***Payment by smartcard***

24. The Department envisages customers in casinos and clubs being able to buy smartcards for use in jackpot machines. These smartcards would operate in much the same way as a phonecard: they would be pre-loaded with credit at a terminal controlled by the operator, and could be inserted into a card slot to pay for play on any suitably-equipped machine on the operator's premises (including amusement machines not used for gaming). The same smartcard could be used in a range of premises owned by the same operator.

25. Jackpot machines accepting smartcards would be able to credit payments directly to the smartcard, or make payment either in cash (notes or coins) or by means of credit notes, tokens or cheques. The form in which money was inserted into a jackpot machine would not necessarily determine the form in which money was paid out.

26. Smartcard credits would be redeemable on demand on the operator's premises for cash or cheque, or a combination of the two. No other method of redemption would be acceptable, although a player would be able to use the credit on a smartcard to pay for other services on the premises. Operators would be required to pay out the exact amount of money which was shown as a credit on the smartcard. They would not be able to offer other credits or prizes in lieu.

27. Players inserting a smartcard into a jackpot machine would be able to transfer up to £20 of the stored value to the machine. The machine would automatically commit up to £2 to the play meter, and would leave the residue on the bank meter. The machine could then be played as set out above. A player wishing to commit more than £20 at a time would have to withdraw and re-insert the smartcard for each sum up to £20.

### **Timing and handling of the proposal**

28. We have examined three issues surrounding the handling of the proposal and its proposed timetable.

#### ***The Gambling Review and the Gambling Bill***

29. We note that the period from the launch of the consultation document to the laying of the proposal appears unusually long for what is a relatively short proposal. The Home Office, which was then responsible for gambling legislation, issued its consultation paper on the proposal in March 2001, under the deregulation procedure. Departmental responsibility for gambling issues was transferred to the Department for Culture, Media and Sport following the 2001 election. The Government responded to the Gambling Review undertaken by Sir Alan Budd by publishing its policy paper, *A Safe Bet for Success*, in March 2002. This set out how the Government would take forward the recommendations of the review in a Gambling Bill.

30. The measures proposed here are in effect interim measures pending the introduction and passage through Parliament of a Gambling Bill. The Budd Review specifically endorsed the proposals set out in the March 2001 consultation document, and the Government said, in *A Safe Bet for Success*, that it would take the proposed measures forward in advance of a Gambling Bill.

#### ***Operation of the 'two-year rule' (section 1(4) of the Regulatory Reform Act)***

31. The Home Office consultation paper initially envisaged making similar provision for both jackpot and higher-value AWP machines. In the event, the proposed amendments relating to higher-value AWP machines are less far-reaching than those envisaged for jackpot machines. The Department explains that this modification to the initial proposal is necessary because the relevant sections of the 1968 Act relating to payments into and out of higher-value AWP machines—sections 34(5C) and (5D)—were amended in December

2001 by an order which increased the maximum prize which could be paid out by a higher-value AWP machine from £15 to £25.<sup>11</sup>

32. Section 1(4) of the Regulatory Reform Act 2001—the ‘two-year rule’—prevents the amendment of any legislative provision by means of regulatory reform order if that provision has been amended by Act or by subordinate legislation less than two years before the date on which the order is to be made. The Department considers that the elements of sections 34(5C) and (5D) which set the maximum value of the prize to be delivered by a higher-value AWP machine form part of the same legislative provision as the elements which lay down the means whereby the prize is to be delivered.<sup>12</sup> The amendments to the former elements have therefore effectively forestalled, for a period of two years, the amendment of the latter by means of regulatory reform order.

33. The Department has explained that the likely difficulty created by the two-year rule came to light only in 2002, when detailed consideration was given to the drafting of the order which would give effect to the proposals in the Home Office’s consultation paper. Until then, specific consideration had not been given to the particular amendments required to the 1968 Act. Even when the difficulty was initially realised, the Department considered that the issue was not clear cut, turning as it did on the exact interpretation of the extent of the provisions in the sections which it was proposed should be amended.<sup>13</sup> The Department argues that even had the problem been appreciated in December 2001, it was by no means clear that the Government would have then decided to delay making a prize uprating order, for which the industry was pressing, in favour of a prospective regulatory reform order which had at that point not yet been drafted.

34. The benefits to the industry if the order is made in its present form are estimated to be £1.85 million annually, far less than the estimated annual benefit of £9.5 million were the order to be made in the way envisaged in the consultation document. Given the substantial reduction in estimated benefits, we asked why the Government had decided to press ahead with the proposal at this time and in this form. In response, the Department said that it “sees no reason not to proceed now with a modest package of reform that will immediately deliver small, but real, advantages to the industry”.<sup>14</sup> It indicated that the existing regulatory regime will in any case be comprehensively overhauled by the prospective Gambling Bill which it hopes to introduce in the next Session.

35. The Department expects to be able to lay the draft order for final scrutiny in late June, and, depending on the availability of Parliamentary time, the Minister expects to make the order before the summer recess (that is, according to the present parliamentary calendar, by 17 July).<sup>15</sup> The Department believes that the earliest an order could be made in the terms envisaged by the consultation document would be 9 December 2003, a delay of five months.

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11 Amended by the Gaming Act (Variation of Monetary Limits) Order 2001 (S.I., 2001, No. 3971), made on 8 December 2001.

12 Appendix B, para 69

13 Appendix B, para 68

14 Appendix B, para 66

15 Appendix B, paras 71-72

36. It is of course open to the Department to delay making its order until the restriction imposed by the two-year rule has expired. If the Department had not indicated that it intended to reform the whole regime by means of a Gambling Bill in the next Session, we would not have hesitated to recommend a delay in making the order to ensure that it could deliver the benefits originally envisaged. **We trust that the Government's confidence in pressing ahead with this limited reform now is matched by its ability to deliver a more substantial reform next year by means of primary legislation.**

### ***Notification to the European Commission***

37. The Department states that there is nothing in the proposal which is incompatible with any obligation resulting from membership of the European Union. However, it indicates that the order and the accompanying Gaming Board guidelines lay down technical standards which are within the scope of EU Directive 98/34/EC, a directive governing the operation of technical standards across the EU. As the draft order and the guidelines both fall within the scope of the Directive, they must be notified to the European Commission. EU rules stipulate that a period of between three and six months must elapse between notification of a new technical standard to the Commission and its coming into force.

38. The Commission received the necessary notification on 7 March 2003.<sup>16</sup> A three month standstill period must operate before the regulation is made or brought into force, to provide an opportunity for the Commission and other Member States to comment if they consider that the proposed regulation has the potential to create a technical barrier to trade. The standstill period in respect of this order ends on 9 June 2003.<sup>17</sup>

39. The Department states that if there is any change to the terms of the draft order, or to the accompanying Gaming Board guidance, as a result of consideration by this Committee or by our counterparts in the House of Lords, it will renotify the amended version to the European Commission.<sup>18</sup> Any renotification will require a further three month standstill period.

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16 Appendix B, para 74

17 The notification, number 2003/0088/UK, can be viewed on the European Commission website at <http://europa.eu.int/comm/enterprise/tris>

18 Explanatory statement, para 160

## 5 Assessment of the proposal against the Standing Order criteria

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### Appropriateness

40. Our predecessor committee, the Deregulation Committee, examined no fewer than eight deregulation orders amending various aspects of the 1968 Act. In its report on the proposal for the last of these, the Deregulation (Bingo and Other Gaming) Order 2001, published in May 2001, it noted its concern that the regulatory reform procedure was being used to make piecemeal changes to the Act, adding complexity to the statute book.<sup>19</sup> That Committee noted the issue in March 2001 of the Home Office consultation document on this very proposal, which it believed was likely to “arouse some dissent”.<sup>20</sup> It recommended that its successor committees should pay particular attention to the possibility that the cumulative effect of further amendments to the law by regulatory reform order might represent a “‘substantial’ or ‘manifestly controversial’” change to the law which might be more suitable for primary legislation.<sup>21</sup>

41. In view of the concerns expressed by our predecessors, we have examined whether the proposal is indeed appropriate for the regulatory reform procedure. In our view, the present proposal does not purport to make a substantial or controversial change to the 1968 Act of a kind which might be better proceeded with by means of a bill. **We believe that the proposal appears appropriate for delegated legislation.**

### Removal or reduction of burdens

42. The Department believes that the present legislation imposes “outdated requirements which add unnecessarily to costs and prevent the flexible use of modern technology” by gaming machine operators and suppliers.<sup>22</sup> It indicates that the proposal would remove three burdens imposed on gaming machine operators by the 1968 Act:

- a) a requirement that jackpot and higher-value AWP machines shall be operated solely by coins<sup>23</sup>
- b) a requirement that jackpot and higher-value AWP machines must be able to accept payment for a single game,<sup>24</sup> and
- c) a restriction preventing jackpot machines retaining a player’s winnings in the machine for future play.<sup>25</sup>

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19 Fourth Report of the Deregulation Committee, Session 2000–01, *The Final Deregulation Proposals*, HC (2000–01) 450

20 *Ibid.*, para 50, footnote 25

21 *Ibid.*, para 51

22 Explanatory statement, para 19

23 Contained in sections 26(1)(b), 31(3), (4) and (5) and 34(5D) of the 1968 Act

24 Contained in sections 31(3) and 34(5B) of the 1968 Act.

25 Imposed by sections 31(4), 31(5) and 34(3), and 34(5C) of the 1968 Act

43. Our analysis of each of these burdens is set out below, first in respect of jackpot machines and then in respect of higher-value AWP machines. The Government does not intend to amend the law in respect of lower-value AWP machines.

### ***Burden (a): methods of payment into and out of gaming machines***

44. The effect of the 1968 Act is to designate coins as the only means of payment into, and out of, jackpot machines and higher-value AWP machines.<sup>26</sup> Section 26(1)(b) of the 1968 Act requires all gaming machines to have “a slot or aperture for the insertion of money or money’s worth in the form of cash or tokens.”<sup>27</sup> The proposal would amend this provision by removing the requirement for jackpot and higher-value AWP machines to have a slot to accept coins or tokens.

45. In respect of **jackpot machines**, the Department believes that the 1968 Act imposes a burden on operators by requiring such machines to operate solely by means of coins. Section 31(3) of the 1968 Act provides that coins alone may be inserted into a jackpot machine in order to play a game on the machine. Sections 31(4) and 31(5) provide that the only prize which may be delivered by the machine shall be in the form of a coin or coins.<sup>28</sup>

46. The proposal would remove the requirement that jackpot machines can accept payment, and pay out prizes, only by means of coins, by :

- removing the overall requirement in section 26(1)(b) of the Act that gaming machines must have a slot for the insertion of cash
- amending section 31(3) so as not to specify that payment into the machine must be in coins, and
- removing the requirements in section 31(4) and (5) that prizes must be delivered by means of coins.

47. The proposal would instead enable such machines to accept payment for games by means of banknotes in addition to coins, as well as by other “non-cash media” such as a smartcard (referred to in the draft order as “an object capable of being inserted into the machine to pay for a game or games”). It would also enable machines to pay out money prizes in a variety of means other than by coins, that is, by banknote, by cheque, by a credit to a smartcard, or by a credit note or token or other means.<sup>29</sup>

48. Although the consultation paper specified the forms in which payment of winnings from a jackpot machine might be made, namely “banknotes, smartcard credits, a cheque or a credit note or token redeemable in full by the operator”,<sup>30</sup> the proposal does not prescribe the specific forms of non-cash payment which may be made into or out of a jackpot machine. The Department argues that “exhaustively specifying” such forms of payment

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26 Lower-value AWP machines may accept stakes in the form of coins or tokens and pay out prizes in coins, tokens and non-monetary form: explanatory statement, para 42.

27 Explanatory statement, para 33

28 Explanatory statement, paras 28-29

29 Explanatory statement, para 40

30 *Gaming machines: methods of payment: a consultation paper*, Home Office, March 2001, para 54

may inadvertently exclude an acceptable means of payment or may “unnecessarily constrain” future technical development.<sup>31</sup>

49. The Department’s identification of the burden imposed by the current legislative requirements, and the means it proposes for removing it, both appear to be sound. **We conclude that the removal of the requirement that jackpot machines must receive payment in coin, and pay out winnings in coin, constitutes the reduction of a burden on the operators and the players of jackpot machines.**

50. In respect of **higher-value AWP machines**, the Department argues that the burden is contained in section 34(5B) of the 1968 Act, which provides that the maximum charge for play on a higher-value AWP machine shall be the same as that on a lower-value AWP machine. Section 34(2) of the 1968 Act provides that the maximum charge for one game on a lower-value AWP machine shall be “one or more coins or tokens inserted into the machine of an amount or value not exceeding . . . 30p.”<sup>32</sup>

51. The 1968 Act does not specifically rule out payment of winnings from higher-value AWP machines in means other than coins, although the wording of section 34(5C) prevents the payment of winnings in tokens. However, the Department believes that if the machine may receive coins alone as payment for play, then in practice it will pay out prizes only in coins.<sup>33</sup>

52. The Department considers that the proposal would remove a burden by enabling higher-value AWP machines to accept payment by banknotes in addition to coins. The proposal would not enable the payment of prizes in any medium other than cash. Such machines would therefore not be able to accept payment via smartcards or pay out prizes by cheque, smartcard credit, credit note or token.

53. We have identified a drafting issue in relation to the way in which the proposal purports to lift this burden. The proposal is intended to allow higher-value AWP machines to accept banknotes in addition to coins, but not to accept smartcards. However, it appears that the proposal, if made, would not have this precise effect, and could in fact allow smartcards and even credit cards to be inserted into the machine as payment. This issue is addressed at greater length at paragraphs 156 to 160 below.

54. We nevertheless conclude that the Department’s identification of the burden in current legislation appears to be sound. **Subject to a satisfactory resolution of the drafting issue which we discuss below, we conclude that the removal of the requirement that higher-value AWP machines must receive payment in coins, and pay out winnings in coins, constitutes the removal of a burden on the operators and the players of such machines.**

### ***Burden (b): accepting payment for a single play***

55. The effect of section 31(3) of the 1968 Act, in relation to jackpot machines, and sections 34(5B) and 34(2) of the Act, in relation to higher-value AWP machines, is to require that

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31 Explanatory statement, para 16

32 Explanatory statement, para 30

33 Explanatory statement, paras 31–32

such machines must be able to accept a coin or coins up to the value required for a single play.<sup>34</sup> At present the maximum payment for a single play of a jackpot machine is 50p, while the corresponding maximum for a higher-value AWP machine is 30p.

56. The Department has not explicitly set out why it believes that this legislative provision constitutes a burden on operators or players of jackpot and higher-value AWP machines, although it does state in passing that it believes the relaxation of the burden will benefit the industry financially.<sup>35</sup> The March 2001 consultation document stated that “requiring machines which accept smartcards and banknotes to provide for players to insert sums of 30p or 50p in coin would be redundant and needlessly expensive for manufacturers and operators.”<sup>36</sup> This appears sufficient to demonstrate that sections 31(3), 34(2) and 34(5B) of the 1968 Act impose a burden on operators and players of both types of machine.

57. The proposal would remove this burden by removing the requirement that all gaming machines falling within the scope of Part III of the 1968 Act must have a slot or aperture to accept coins or tokens. One effect of the removal of this requirement is that operators will be able to operate jackpot machines which may accept banknotes and smartcards only, and higher-value AWP machines which may accept banknotes only.

58. We considered a further issue in this respect. The initial consultation document proposed that Gaming Board guidelines should retain the requirement that jackpot and higher-value AWP machines which were to be operated by coins only should continue to be able to accept payment for a single play.<sup>37</sup> The Government now considers that it would not be appropriate for the Gaming Board to reinstate in its guidelines the effect of a legislative provision which Parliament would have removed by means of this order, and that in any case “it would not serve much purpose for the Board to do so.” The Department’s change of heart is discussed further at paragraphs 99 to 104 below in relation to necessary protections, and in paragraphs 145 and 146 below in relation to consultation.

59. It appears to us that the Department’s identification of the burden and the means whereby it is to be removed is sound. **We conclude that the removal of the requirement that jackpot machines and higher-value AWP machines must be able to accept separate payment for a single play constitutes the removal of a burden on gaming machine operators.**

### ***Burden (c): retention of winnings in gaming machines***

60. The wording of sections 31(4), 31(5) and 34(3), and 34 (5C) in the 1968 Act means that prizes won in one session of play on a gaming machine must be paid out at the end of that session, and cannot be retained in the machine for future play. The proposal would amend the law in respect of jackpot machines to enable players to retain their winnings in the machine after a session of play.

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34 Explanatory statement, para 34

35 Explanatory statement, para 63

36 Consultation document, para 50

37 Explanatory statement, para 130, and consultation document, para 61

61. The Department did not set out in the explanatory statement, nor in the consultation document, why it believed the present requirement constituted a burden, and on whom the burden fell, although it indicated in passing that it believed the removal of the requirement would benefit the industry financially.<sup>38</sup>

62. Consequently we asked the Department to specify the nature of the burden it considered was imposed by the present requirement that prizes won in one session of play on a gaming machine must be paid out at the end of that session, on whom it considered the burden fell, and how the proposal would reduce or remove the burden.

63. The Department has indicated that the burden falls on persons potentially liable for prosecution if they operate gaming machines in a manner which is not compliant with the existing law (for example, operating machines which retain winnings for future play). This requirement on operators constitutes a burden as set out in the Regulatory Reform Act.

64. The Department has also explained the practical effect of the burden imposed by the law: it results in additional wear and tear on a gaming machine's coin-handling mechanisms, and requires players who wish to replay their winnings to reinsert the coins they have won.

**65. We conclude that the Department has satisfactorily demonstrated that the proposal would remove a burden by removing the requirement that gaming machines must pay out their winnings rather than carrying them over for further play.**

### ***New burdens to be imposed by the proposal***

66. The Department indicates that the proposal will create one new burden, which will fall on operators of jackpot machines. It intends to require operators of jackpot machines which pay out through non-cash media (that is, smartcards, tokens or other as yet unspecified means) to redeem these for cash or cheque (or a combination of the two) on demand on the premises where the machine is used.<sup>39</sup> The Department believes that this will safeguard payments to customers by ensuring that "players are readily able to ascertain the amount of any winnings in media other than coin and to claim it in cash or cheque on demand at the premises where they have won it." The Department considers that this requirement would also result in practical benefits to players, who would be able to receive potentially large money wins in non-coin form.

67. We note that the Government does not at present propose to make it a specific offence for an operator to refuse to honour a legitimate smartcard credit. The Department argues that this is because gambling debts are unenforceable in law (a provision of the Gaming Act 1845). It indicates that reform of this aspect of gaming law is beyond the scope of the present order, although it is likely to be reformed via the forthcoming Gambling Bill. This point is dealt with in greater detail in the context of necessary protections at paragraphs 92 to 98 below.

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38 Explanatory statement, para 63

39 Explanatory statement, para 57

### *Requirements to be imposed by non-statutory means*

68. The Department envisages that the operation of the new machine and smartcard systems will require further customer safeguards. It proposes that these safeguards should be provided by the means of Gaming Board guidelines for the suppliers and distributors of gaming machines. Such guidelines would be non-statutory and non-binding, although the Government argues that they can be effectively enforced by the Gaming Board, which issues certificates of fitness to gaming machine suppliers (but not to operators).<sup>40</sup> Without such a certificate a gaming machine supplier cannot lawfully operate.

69. The proposed guidelines which the Board intends to operate in respect of the new machine and smartcard systems are set out at annex A to the explanatory statement. The Department considers that these guidelines will impose further requirements on the suppliers of new machines, in that they will make detailed rules about the operation of such machines. The Department describes these new requirements as new burdens. However, they are not to be imposed by means of the order, and do not depend on legislation. They are discussed in greater detail in the context of necessary protections at paragraphs 106 to 133 below.

### *New burden: proportionality*

70. Section 1(1)(c) of the Regulatory Reform Act provides that a regulatory reform order may impose a new burden, but that that burden must be proportionate to the benefit which is expected to result from its creation. The Department argues that the new requirement which is to be imposed by the proposal provides a necessary safeguard for users of gaming machines.

71. We were not satisfied with the Department's assessment in the explanatory statement of how the draft order met the proportionality test. The Government's assessment of the test related to the entirety of the new burdens which it proposes should be imposed, by means of non-statutory guidelines issued by the Gaming Board as well as by means of the draft order. We therefore asked the Department to provide an assessment of how the new burden to be included in the draft order would meet the proportionality test without reference to the Gaming Board guidelines.

72. In response, the Department identified the benefit which would arise from the new burden to be imposed by the draft order, namely that a player using a smartcard or other non-cash means to play a jackpot machine would be able to recover any money won or any credit stored on a smartcard. It also considered that the benefit which the proposal would bestow on the operator from being able to run jackpot machines which use smartcards would be proportionate to the new burden to be imposed on the operator.

**73. We are satisfied that the Department has demonstrated that the new burden is proportionate to the benefit which is expected to result from its creation.**

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<sup>40</sup> Explanatory statement, para 59

### *New burden: fair balance and desirability*

74. Section 3(2) of the Regulatory Reform Act provides that a proposal may create a new burden only if:

- the provisions of the order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burden being created (section 3(2)(a)), and
- the extent to which the order would also remove or reduce other burdens, or have other beneficial effects for those affected by current burdens, makes the order desirable (section 3(2)(b)).

75. The fair balance and desirability tests are relevant here because the proposal would create a new burden.

### *Section 3(2)(a): fair balance*

76. The Department argues that the removal of the burdens it has identified would have important financial benefits for the gaming machine industry. To recap, these burdens are:

- a) the restriction on methods of payment,
- b) the requirement to accept payment for a single game, and
- c) the prohibition on retention of winnings in a machine.

77. The Department has set out how it believes the proposal meets the fair balance test.<sup>41</sup> Those affected by the new burden would be machine operators and players. Machine operators, it argues, are prepared to support a change in the law, as the new burden would arise from the wider freedom they would have to configure their machines in a more efficient way. Players would be placed in an advantageous position by the new burden since they would in practice be able to secure payment of any non-cash winnings on demand.

78. The Department also considers that the public interest would be served, as far as operators and players of machines are concerned, by an increase in the efficiency of operation of gaming machines. The public interest would additionally be served by the inclusion in the proposal of protections intended to ensure that machines are operated in ways which do not risk encouraging players to use them excessively. It therefore believes that the provisions of the draft order strike a fair balance between the public interest and the interests of persons affected by the burden being created.

79. The protections against excessive use contained in the proposal are material to the Department's assessment of how the draft order meets the fair balance test. However, they are not contained in the draft order, but in the accompanying Gaming Board guidelines. We have considered whether the operation of the proposed Gaming Board guidelines will sufficiently maintain necessary protections. Our specific findings in relation to necessary protections are set out at greater length below.

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<sup>41</sup> Appendix B, paras 10–11

**80. We conclude that the proposal strikes a fair balance between the public interest and the interests of the operators and players of gaming machines.**

### *Section 3(2)(b): desirability*

81. The Department indicates that the Government believes the proposal is desirable because it would offer estimated benefits to the gaming machine industry of £1.85 million a year. The Department believes that the proposal would also offer “some benefits” to players, but it does not set out what they are in the body of the explanatory statement. The Regulatory Impact Assessment attached to the explanatory statement states that the anticipated benefits to players are as follows:

... more choice in methods of playing machines and [the receipt of] prizes in a more convenient form. [Players] would also benefit from fewer machines down time and fewer disputes if the machine does not pay out properly.<sup>42</sup>

82. Although the Government has not stated here that the proposal also removes one or more burdens, we are satisfied that the draft order would do so. **We therefore conclude that the extent to which the order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the existing law, makes it desirable for the order to be made.**

### **Continuing necessary protections**

83. The Department did not initially set out its view of whether the existing law affected by the proposal afforded any necessary protection and, if so, how that protection was to be continued. This gave us no firm basis for assessing the extent to which the protections in the proposal and in the proposed Gaming Board guidelines continue any necessary protections. We therefore asked the Department to list the protections which it considered were contained both in present legislation and in current Gaming Board guidelines on the operation of gaming machines, to indicate the extent to which it considered these protections would be continued by means of the order and the proposed new guidelines; and to indicate, in respect of any protections which are not to be continued, whether it considered they were necessary.

84. In its response the Department set out the three protections which it believed were contained in the present legislation, namely:

- a) The fact that players must pay for games in coin. As the highest-value coin in circulation at present is £2, this in effect means that players must make a separate decision to commit each sum of up to £2 to play.
- b) The fact that players of jackpot machines are paid out in cash when they win.
- c) The requirement that machines must be able to accept payment for a single play. The provisions of the 1968 Act relating to jackpot machines and higher-value AWP

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42 Explanatory statement, annex B

machines both require that “the charge for play for playing a game once by means of the machine shall be a coin or coins of an amount not exceeding [value]”.

*Protection (a): payment for games in coin*

85. The present requirements in the 1968 Act are that jackpot and higher-value AWP machines may accept only coins in payment, and may pay out only by means of coins. Whether or not these provisions were intended as protections when the legislation was first enacted, they appear now to operate as forms of protection for the users of such machines.

86. The requirement in sections 26(1)(b), 31(3), (4) and (5) and 34(5D) of the 1968 Act that payments into the machine may be made only by means of coins prevents users of gaming machines from committing more than the maximum value of a single coin (at present £2) to play at any one time, and therefore provides a protection against committing larger sums of money to play in a single action. A separate action is required to insert each coin, which gives the player opportunity for reflection. We note that there is at present no legal limit to the number of coins which may be inserted into the machine at any one time, and there is no requirement for operators to pay out unused coins.

87. The Government proposes to continue protection (a)—which has the effect of setting the maximum payment into a machine at £2—by means of Gaming Board guidelines, which will require machines accepting banknotes or smartcards to be programmed so that players must make a fresh decision to commit each separate tranche of £2 or less from their smartcard, inserted banknote or winnings to play the machine.

88. This protection will not be continued in legislation, but the Department considers that this provision is “entirely equivalent to what currently exists” in legislation. The existing law does not define £2 as the maximum payment which may be inserted into a machine in order to play. The Department nevertheless believes it appropriate that there should be an upper limit equivalent to the highest value coin in regular circulation. One consultation response called for a £5 upper limit (equivalent to the lowest-value banknote in general circulation), a suggestion the Department rejected.<sup>43</sup>

89. We agree that, wherever a player is able to insert large sums of money into a gaming machine, there ought to be an upper limit on the amount the player is able to commit to play at any one time. **We believe that this upper limit ought to be equivalent to the highest-value coin in general circulation (at present £2), and that in principle the limit ought to be expressed thus in Gaming Board guidelines.**

90. We have considered whether provision for this necessary protection ought in fact to be included on the face of the draft order, rather than in Gaming Board guidelines. We have concluded below that the Gaming Board will be effective in the administration and enforcement of the guidelines which will accompany the draft order. **We are therefore prepared to allow the Department the flexibility to make provision for this form of protection by means of guidelines, and believe that the limit should be expressed as proposed above.**

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<sup>43</sup> Explanatory statement, para 135 (Justices’ Clerks’ Society)

**91. We are content that this necessary protection should be continued by non-statutory means.**

*Protection (b): immediate payment in cash*

92. At present the player of a jackpot machine is in effect guaranteed to receive all winnings in cash, because of the requirement that such a machine may pay out only in coins. Although there is no specific requirement for a higher-value AWP machine to pay out winnings in coins, the Department argues that in effect they do so, as they may at present accept only coins. Thus for both types of machine the player is in theory guaranteed an immediate payout of winnings, as the present legislation does not allow winnings to be carried over for further play. The Department has, however, noted that while the 1968 Act defines the maximum prizes which gaming machines may pay out, it does not require operators to pay them.<sup>44</sup>

93. This protection is to be continued in respect of non-cash media by means of the new burden in the draft order: that is, the requirement that operators running jackpot machines which pay out in non-cash media should pay out the full value of a player's winnings on demand by cheque, cash or a combination of the two at the premises where the machines are used for gaming. The consultation document indicated that the Government did not propose to make it a specific offence for an operator to refuse to honour a legitimate smartcard credit, but that "a consistent pattern of improper refusal to settle smartcard credits would plainly have an impact on the operator's market."<sup>45</sup>

94. We have considered whether the requirement for operators of jackpot machines to pay out winnings in full by cash or cheque is an adequate continuance of the protection which the operation of coin-only machines presently provides. In doing so, we took into account the response to the consultation document from Cardiff University Law School, which argued that the protection which the proposal provided for the consumer in respect of smartcard redemption was insufficient. A mere requirement on an operator to pay out a smartcard credit would not be enforceable, as under the Gaming Act 1845 gambling debts are not enforceable in law, and the threat of market sanctions against an operator who failed to pay out on a smartcard would depend very much on the operation of the market in the operator's area. It believed that if operators were to be given the commercial advantages of the use of smartcards, their obligations to players should be set out in law.

95. In response the Department has argued that the level of protection provided to players who win prizes which are to be delivered from machines by non-cash payment methods is equivalent to the protection presently afforded to players who win cash prizes: "there is no significant difference so far as the player is concerned between being paid out in cash directly by a machine and being paid out by non-cash means which are redeemable on the premises."<sup>46</sup> We note that in fact the level of protection is slightly increased, since there is at present no explicit requirement on operators to pay cash prizes (for example, in situations where a machine does not have sufficient coins to pay out a prize).

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44 Appendix B, para 27

45 Consultation document, para 57

46 Appendix B, paras 17–18

96. It is intended that the forthcoming Gambling Bill will repeal the provisions of the Gaming Act 1845, and will establish a process whereby gambling debts are enforceable through the civil courts. The Department conceded that it would be possible to disapply the 1845 Act from gaming machine smartcard debts, and to make it a criminal offence to refuse to pay out on a smartcard credit. However, to include such provisions in the draft order would be disproportionate in the overall context of the present law on gambling, and would create a situation where relatively small smartcard debts would be legally enforceable, while larger debts in connection with betting or casinos would not be.<sup>47</sup>

97. The Department has set out more fully why it believes that the operators of jackpot machines would in any case be unlikely to refuse to pay out on a legitimate smartcard credit. Operators of casinos and bingo clubs need a magistrate's licence to operate, and are subject to Gaming Board monitoring. Should these operators refuse to pay out on smartcard credits won on jackpot machines on their premises, the Department argues that the Gaming Board would have to consider applying to the magistrates for cancellation of their licence. Operators who run jackpot machines in members' clubs need magistrates' permits to operate their jackpot machines. The Department believes it improbable that they would refuse to pay out on a gaming machine prize won by a member or a guest, and that if this were the case members could have recourse to a club's own procedures.<sup>48</sup>

98. The present level of protection for players of gaming machines is not perfect: there is no present requirement in law on operators to pay out cash winnings from a machine. As we note above, the level of protection provided for payment from machines by non-cash means is in fact slightly higher than that provided for in existing legislation. **We are therefore satisfied that a necessary protection is continued in this respect.**

#### *Protection (c): payment for a single play*

99. Protection (c) is not to be continued. The Department does not consider this protection to be a necessary one: "it does not add to consumer safeguards to have law which requires that players must always be able to insert, in effect, their loose change into a gaming machine".<sup>49</sup>

100. In removing the requirement that jackpot and higher-value AWP machines should be able to accept payment for a single play, the proposal would remove a form of protection for users of these machines. At present, if they wish to, players can limit the stake they commit to the machine to that required for a single game. Under the proposal, machines which accepted smartcards and/or banknotes would no longer be required to accept the minimum stake: the proposed Gaming Board guidelines might require players to commit as much as £2, unrefundable, to a higher-value AWP machine which can charge no more than 30p for a single play.

101. The Home Office, in its consultation document, initially proposed to retain the protection in Gaming Board guidelines, but in the explanatory statement the Department indicated that it was not to be retained, as it was "redundant and needlessly expensive" for

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47 Appendix B, paras 25, 22

48 Appendix B, paras 23–24

49 Appendix B, para 20

machines which were designed to accept smartcards and/or banknotes to have to accept payment for a single play. When we asked why the requirement was to be dropped from Gaming Board guidelines, the Department explained that on reflection it was not considered “necessary or logical to require coin-only machines to accept payment for a single play when machines taking banknotes do not”, and that the issue should be a commercial matter for the industry to decide.<sup>50</sup> The proposal would also remove this requirement from machines which could continue to accept coins. Operators will therefore decide whether they wish to retain machines which can accept payment for a single play in order to attract casual players.

102. GamCare (the National Association for Gambling Care, Educational Resources and Training), in its response to the consultation, stated that it believed the requirement to accept payment for a single play was “an important safeguard, especially for the occasional or casual player.” It nevertheless understood the reason for removing the requirement, and raised no objection to it, on the understanding that relevant machines would display clearly the minimum stake which had to be committed to play the machine, together with the number of games which could be played for that stake.

103. The Department’s stated intention is that “the player should always easily be able to know how much it will cost to play on the machine.”<sup>51</sup> The Gaming Board is not aware of any machine which does not show the price of a game on its face, and the Department states that it has never been necessary to set such a requirement. Once the requirement that all machines should be able to accept payment for a single play is removed, however, the amount which a player will have to insert into a machine to play a game will in many cases be more than the price of a single game. We consider that if it is the Department’s intention that the player should always easily be able to know what it will cost to play on the machine, it should take this issue into consideration. We nevertheless agree with the Department in its overall assessment of the protection.

**104. We agree with the Department that the present protection in respect of accepting payment for a single play is not a necessary one, and may be dispensed with.**

**105. We are therefore satisfied that the proposal would continue all necessary protections.**

### ***Protections to be contained in Gaming Board guidelines***

106. Apart from the new protection to be included in the draft order (discussed at paragraphs 93 to 98 above), all other safeguards on the operation of the proposed new types of machine are to be enshrined in proposed Gaming Board guidelines. The Department believes that the guidelines are needed “to ensure adequate safeguards for customers.”<sup>52</sup> It believes that it is more appropriate to include these safeguards in

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50 Appendix B, paras 40–41

51 Appendix B, para 39

52 Explanatory statement, para 61

guidelines, as they are easier to adapt to circumstances “in the light of a rapidly-changing, high-tech industry.”<sup>53</sup>

107. A draft of the guidelines is available at annex A to the explanatory statement. The Department states that this draft is “broadly in its final form” but may be subject to minor changes before coming into effect. The Department has assured us that the guidelines will be in their final form when the draft order is laid for final scrutiny.<sup>54</sup> They are to be issued under the authority of the Gaming Board, which will discuss any amendments to them with the Department before such amendments are issued.

108. The safeguards which the Department indicates are to be implemented by means of Gaming Board guidelines will include:

- a specification of £20 as the maximum denomination of banknote which may be used in a gaming machine
- a requirement that a player cannot transfer more than £20 credit from a smartcard to a machine without having to remove and reinsert the card
- a requirement that gaming machines using banknotes or smartcards be programmed so as to require players to make a fresh decision to commit a sum of up to £2 from their banknote, smartcard or winnings credits to playing the machine, every time the amount on the play meter falls below the minimum charge for a single play
- a requirement that players who decide not to commit a fresh sum of up to £2 to playing the machine are subsequently able to retrieve all the money owed them by the machine, with the proviso that the machine may be able to retain sums of up to £1, which may be used for further play or (if insufficient for a single play) retained for use by subsequent players
- a requirement that players with credit on the play meter less than that required to play a single game are then able to collect all money owed to them by the machine (subject to retention in the machine of sums of up to £1).

109. The Department also indicates that the Gaming Board’s present guidelines for the operation of AWP machines prevent players of machines being able to accumulate more than five times the maximum prize from the machine. This restriction is to be continued.

110. The guidelines which the Gaming Board presently issues to the gaming industry are not subject to parliamentary control, although amendments to them are discussed with the Department before they are made. The proposed guidelines which are to be issued with the draft order are similarly not to be subject to parliamentary control. The Department argues that the proposals “do not significantly alter the overall balance” between the statutory protections to be delivered by means of the draft order (which it describes as “core

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53 Appendix B, para 44

54 Appendix B, para 46

protections”) and the non-statutory protections to be assured by means of the Gaming Board guidelines.<sup>55</sup>

111. We have considered above the issue of the protection in the existing law concerning the maximum sum a player may commit to play a machine at any one time. We are content that it should be continued by means of Gaming Board guidelines, as the Department proposes. Therefore **we agree with the Department’s analysis that the proposal adequately maintains the present overall balance between statutory and non-statutory protections.** Our concerns over the provisions of certain individual protections to be included in the guidelines are set out below.

### *Automatic credit to smartcard*

112. The consultation paper indicated an additional safeguard to be included in the Gaming Board guidelines, namely a requirement that whenever a smartcard is withdrawn or ejected from a gaming machine, the machine shall first credit the card with all the money owing to the player.<sup>56</sup> This requirement does not appear in the list of proposed guidelines in the explanatory statement. The Department’s analysis of consultation responses indicates that two consultees—the British Casino Association and Gala Leisure—had argued that this requirement would disrupt players’ playing patterns.

113. The Department has explained that, on reflection, it considers this requirement to be technically impractical, given the other requirements applying to the operation of smartcards. If a player emptied a smartcard of value, it would be automatically ejected, but would first have to have all the value recredited to it: it would therefore be impossible for a player to commit the full value of a smartcard to play on a machine.

### *Provision of smartcard readers*

114. The explanatory statement indicated that Gaming Board guidelines would provide for premises which have gaming machines to have smartcard readers separate from such machines for customers to use to check the amount remaining on a smartcard without inserting it into a gaming machine.<sup>57</sup>

115. The draft of the Gaming Board guidelines attached to the statement states that “a facility must be available on the premises which will show the player what credits his smartcard holds without requiring credits to be spent or a game to be played. In practice, this requires that this facility is provided by the machine, where the contents of the smartcard will be shown on a display until either the player transfers money from the smartcard or withdraws the smartcard.”<sup>58</sup>

116. We asked the Department to explain the discrepancy between the explanatory statement and the draft guidelines. In response the Department stated that it did not now think a separate smartcard reader was necessary, as “it is better for the player to have a

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55 Appendix B, para 45

56 Consultation document, paras 52 and 61

57 Explanatory statement, paragraph 68

58 Explanatory statement, annex A

reader conveniently sited in the machine he is playing.”<sup>59</sup> It also explained that the Gaming Board could exert more direct control over smartcard readers sited in machines, as the Board could exert more direct control over suppliers, and through them over manufacturers: if a manufacturer produced a machine which the Board did not like, it could exert its influence over machine suppliers not to use it or site it.

117. We note that it would in any case have been difficult for the Gaming Board to enforce any guidelines on the provision of smartcard readers on the operators of gaming machines, as the guidelines are addressed to suppliers and not to operators.

118. We are nevertheless concerned that the Department appears to have reversed its position on a provision in the proposal which appeared to constitute a valuable safeguard for the player. Although the draft Gaming Board guidelines require a smartcard reader to show a player the amount of credit on the card without requiring credits to be spent or a game to be played, it is entirely conceivable that manufacturers might construct machines which would invite or induce a player to transfer credit or to play a game as soon as a smartcard was inserted into the machine. We believe that this would be an unacceptable development and would reduce the level of protection available to the player. **We believe that the draft Gaming Board guidelines should be amended so as to provide that a player who inserts a smartcard into a gaming machine shall not receive any inducement or invitation to play a game on the machine unless and until the player has committed money to play.**

### *Retention of surplus credit*

119. The Department envisages two situations where Gaming Board guidelines will allow a gaming machine to retain a player’s money in the machine:

- where the amount on the play meter is less than that required to play a single game, and
- where the amount on the bank meter is less than £1 (enabling the machine to pay out from the bank meter in round pound amounts).

120. The provision that a machine is not required to pay out a sum on the play meter which is less than the stake required for a single game is, the Department states, in line with present Gaming Board guidelines on the operation of gaming machines: “there are often occasions when a small amount of money, not enough for a single game, is left in the machine.”<sup>60</sup> We accept that in this respect the present level of protection is therefore retained.

121. The provision that amounts of less than £1 can be retained on the bank meter is of greater concern to us. The industry might argue that it is more convenient for payouts from the bank meter to be made in round pound amounts, and this may make practical sense for machines which pay out prizes in coins. The Department argues that the provision is acceptable, since, once the requirement on machines to accept payment for a

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59 Appendix B, para 38

60 Appendix B, para 43

single play is removed, machines which accept only £1 or £2 coins will not have lower value coinage to pay out smaller amounts.<sup>61</sup>

122. At present, therefore, it appears that the retention of small cash residues in a gaming machine is tolerated because machine design renders it impractical to pay them out in full. Electronic means of payment are not, however, affected by this mechanical impediment. **We believe that technological developments in the gaming machine industry ought to work to the consumer's benefit. Accordingly we see no good reason why, in principle, players using jackpot machines which can accept and pay out value by electronic means should not be able to collect the full value owing to them on the bank meter at any reasonable time. We would expect the Gaming Board guidelines to reflect this principle.**

123. It would in any event be open to operators of smartcard-enabled machines to decide that it is in their interests to set their machines to make full payment from the bank meter to a smartcard, thereby encouraging the use of smartcards and attracting players from cash-only to smartcard-enabled machines.

124. We asked the Department whether it believed that the retention of small sums on the bank meter of a gaming machine might constitute an inducement to a player to continue playing the machine. The Department told us that the player protection issue was whether the player had to pay for that further play, and argued that at present players with cash residues left on a machine could insert coins to make up the difference between the residue and the amount required for a single play. It therefore believed that the draft order would introduce nothing new.

125. New sections 31(3A), (3B) and (3C), to be inserted by the draft order, provide for the use of smartcards in jackpot machines and for their redemption. Section 31(3B)(c) provides that any payment by the operator to redeem a smartcard must be of the 'appropriate amount'. Section 31(3C) defines this amount by means of a formula,  $(A+B)-C$ , where A is the amount paid for the smartcard, B is the amount of any prize to be credited to the card and C is the amount charged for one or more services where the card has been used to pay for those services. Such services would include play on a jackpot machine, and might also include play on other amusement machines or the purchase of food or drink.

126. Where a smartcard is used to play a gaming machine, and is then offered for redemption, it therefore appears that the card must be redeemed in accordance with the formula ('cost of credits to card' plus 'winnings') less 'amount paid for play' (which will presumably always be a multiple of the charge for a single play). This does not appear to allow any leeway for a machine to retain any cash residue on the play or the bank meters when a smartcard has been used to play the machine. **An operator running smartcard-operated machines which were set to retain cash residues of less than £1 on the bank meter might therefore risk a breach of the law. We draw this matter to the Department's attention.**

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61 Appendix B, para 42

### *Retention of winnings in gaming machines*

127. The requirement in the 1968 Act that gaming machines must immediately pay out a player's winnings in full appear to constitute a form of protection for the player. While the proposal would remove this requirement, the Department proposes to replace it with a requirement in Gaming Board guidelines that winnings shall either be paid out directly or credited to the bank meter for the player to collect or transfer to the play meter as wished.

### *Enforcement of existing and proposed Gaming Board guidelines*

128. The Department acknowledges that the Board's guidelines are non-statutory and non-binding, but argues that they can nevertheless be effectively enforced, as Schedule 6 to the 1968 Act empowers the Board either to revoke a certificate issued to a person who sells, supplies or maintains gaming machines, or to decline to renew it, if it considers that the holder of the licence is 'not a fit and proper person'. The Department indicates that the Board "regards its guidelines as covering matters which can be taken into account in assessing whether a certificate holder is fit and proper", and that this view has been tested successfully in the courts.

129. Certificates under section 27 of the 1968 Act are issued to gaming machine suppliers by the Gaming Board for periods of five years, and are renewable. The annual report of the Gaming Board for Great Britain for 2001-02 states that there were 678 certificates in force in Great Britain on 31 March 2002.<sup>62</sup> Of the applications decided in the financial year 2001-02, one application for a new certificate was refused by the Board. No certificates were revoked, and no applications for renewal were refused, although the holders of 18 certificates due for renewal during the year did not apply for renewal.

130. We asked the Department to provide an analysis to cover the last three financial years for which figures were available of the Board's activities in certifying suppliers and refusing and revoking certificates: its response is set out in Appendix B.<sup>63</sup> The Department states that breaches of the guidelines are extremely rare, and are normally dealt with by discussions with the supplier or the manufacturer of an offending machine. The ultimate sanction is the removal of the supplier's licence. The Department has also demonstrated how it believes the Gaming Board guidelines, which are addressed to suppliers, can be enforced upon operators.

131. In its response to the Government's consultation, GamCare raised a number of issues relevant to the operation of the Gaming Board's guidelines. GamCare believed that the enforcement powers of the regulatory authorities should be improved, stating that "despite the assertion in the consultation document, it is our understanding that the regulator's powers to enforce compliance are only partly effective."<sup>64</sup> It also believed that certificates of fitness should be issued to operators of gaming machines, as well as suppliers.<sup>65</sup>

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62 Report of the Gaming Board for Great Britain 2001-02, HC (2001-02) 1016, pp 52-57

63 Appendix B, para 51

64 Consultation document, para 60: "The [Gaming] Board's guidelines are not part of the law. But it can enforce them effectively."

65 The Department has indicated that its proposed Gambling Bill will create a Gambling Commission which will license both suppliers and operators of gaming machines.

132. In response to our invitation to elaborate on its concerns over the Board's enforcement powers, GamCare stated that its principal concern in this respect was in the illegal siting of higher-value AWP machines in areas which could be accessed by minors, a licensing issue which it accepted was out of the Gaming Board's hands.<sup>66</sup> While this issue is clearly of some concern, it is not directly relevant to the matter before us, which is the Gaming Board's ability to enforce its guidelines on the suppliers of gaming machines. The Department recognises that in some instances Gaming Board control can be brought to bear only indirectly, but it considers that in this instance the Board's powers will be effective.<sup>67</sup>

**133. We are satisfied that the Gaming Board will be effective in the administration and enforcement of the guidelines which will accompany the draft order.**

## Consultation

134. The consultation document relating to the proposal was issued by the Home Office (the department then responsible for gambling matters) on 19 March 2001, and published on the Home Office website. Responses were invited by 15 June 2001. The consultation began before the Regulatory Reform Act had received Royal Assent, and consultation therefore took place under the provisions of the Deregulation and Contracting Out Act 1994. The Home Office indicated in its consultation document that the consultation was intended to satisfy the requirements of the Regulatory Reform Bill should it be enacted. In the explanatory statement to the proposal the Department indicates that the Government is satisfied that the consultation has satisfied the requirements of section 5(1) of the Regulatory Reform Act.

135. Fifty responses were received to the consultation, mainly from individual gaming machine suppliers and operators, representative bodies (for example, BACTA, the operators' trade association), churches and religious organisations, charities with interests in gambling, and academics. The Department has summarised the responses in the explanatory statement (paragraphs 113–152).

136. A sizeable majority of the consultation responses, from all sectors consulted, welcomed the proposed changes insofar as they enabled the appropriate and efficient use of modern technology in gaming machines. A number of responses did, however, raise issues in relation to problem gambling which were not adequately covered in the Department's explanatory statement, and we have raised these with the Department.

## *Problem gambling*

137. A number of consultees pointed out that spending virtual cash (that is, credits on a smartcard) rather than real cash would mean there was less of a psychological barrier to excessive spending.<sup>68</sup> This might in turn lead to an increase in problem gambling on

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66 Appendix D

67 Appendix B, para 49

68 For example, GamCare, the Church of Scotland, the Methodist Church, the Wesleyan Reform Union, Nottingham Trent University and the Welsh Assembly Government.

gaming machines, possibly exacerbated by the actions of unscrupulous suppliers and operators.

138. The Department indicated that, while the Government's aim was to require all parts of the gambling industry to operate to the highest standards of social responsibility, it was beyond the scope of the order to enshrine this requirement in law. However, it envisaged that a new Gambling Commission, to be established by the proposed Gambling Bill, would be responsible for issuing codes of practice on social responsibility which would form part of operators' licences. It noted that the gambling industry was making encouraging progress in setting up a trust to pay for the treatment of problem gamblers and to commission research into the causes of problem gambling.

139. The consultation document stated the Government's concern that the proposed changes should not exacerbate problem gambling. It indicated that it "seem[ed] unlikely" that players' playing patterns would alter. In support, it cited two assertions made by the gaming machine industry: that 70 per cent of winnings on gaming machines, normally smaller winnings, were replayed into machines (based on analysis of data collected by the manufacturer JPM in the course of a research exercise); and that most players would decide in advance the limit to their session expenditure (based on a poll of leading gaming machine operators conducted by BACTA). The Department believed that the proposed changes would be unlikely to alter this pattern of behaviour.

140. The consultation response received from Cardiff University Law School observed that the consultation paper made no reference to the Gambling Prevalence Survey, undertaken by the National Centre for Social Research, the results of which were published in 2000, which it stated was the only recent large scale sample which tested problem gambling, although it did not capture specific data about players' turnover on machines. Contrary to expectations, the survey had found that gaming machines were not the worst temptations for problem gamblers.

141. The response of the Centre for Research into the Social Impact of Gambling based at the University of Plymouth, noted the Government's assertion that the proposed changes would not exacerbate problem gambling. It stressed that it was "absolutely imperative" that research should be undertaken to address the potential impact of the changes, both on the patterns of consumption of gaming machine users and on their likely effects on problem gambling behaviour, prior to the changes being made,

142. We asked the Department whether it had commissioned, or was aware of, any independent research into the likely effects of the new machines and payment methods on player behaviour and problem gambling. The Department responded that it had commissioned no specific research on the draft order, as it would be difficult to carry out in advance of the changes being made. It noted that the Gambling Review Body had reviewed a wide range of research evidence before it had endorsed the proposed changes. A review of this research evidence carried out by independent consultants for the Gambling Industry Charitable Trust had indicated that machines could be configured to increase the

risk of excessive play, but that there was no evidence to suggest that there were significant risks in allowing players to insert value into machines in one form rather than another.<sup>69</sup>

143. We recognise that it is difficult to simulate the effects on player behaviour of gaming machines which cannot yet lawfully be operated in Great Britain. But we do not necessarily share the Department's confidence that the new machines will not pose any significant additional risks to player behaviour. **We consider that the Department should arrange for an independent monitoring programme to assess the effects of the new machines on player behaviour, to report the results of the monitoring programme to the House and to take appropriate action should it appear that the new machines are exacerbating problem gambling behaviour. The monitoring programme should be rolled forward to cover the operation of the new machines covered by this proposal under the similar provisions which the Department indicates will be enacted via the Gambling Bill.**

### *Changes to proposal following consultation*

144. The Department states that there have been no changes to the proposal as a result of representations received following consultation.

145. The Government, in its consultation document, proposed to include in Gaming Board guidelines the requirement that those jackpot and higher-value AWP machines which did not accept smartcards and/or banknotes (that is, ones which would continue to be coin only) should remain capable of accepting payment for a single play. In the explanatory statement, the Department explains that it had dropped this requirement from the proposal because it believed that it would be inappropriate for Gaming Board guidelines to re-impose a provision which had been removed from legislation by Parliament, and that in any event it would not serve much purpose to do so. We have addressed the Department's arguments in this respect at paragraph 101 above.

146. The Department states that as the substance of the issue of accepting payment for a single play had already been raised in the initial consultation document, it believed that to drop the requirement in the case of coin-only machines did not raise any separate issues, and it did not therefore believe that any new issue of principle had arisen which would have required re-consultation on the proposal.<sup>70</sup>

147. **We are satisfied that the proposal has been the subject of, and taken appropriate account of, adequate consultation.**

## **Costs and benefits**

### *Financial costs and savings*

148. The Department identifies costs to the industry which will arise from operators either converting their machines to accepting notes (a cost of between £250 and £300 per machine) and smartcards (£170 per machine). BACTA consider that operators wishing to have the full benefit of the new methods of play will have to purchase new machines: these

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69 Appendix B, para 58

70 Appendix B, para 60

are likely to cost in the region of £2200, compared to £2000 for a current machine. These initial costs to the industry would reduce the immediate benefit of the proposals in year one, but the Department considers that they would soon be absorbed in subsequent years.

149. The Department indicates that the overall financial benefits to the industry will be delivered in the form of:—

- reduced maintenance costs (owing, for example, to coin jams)
- reduced down times (that is, when a machine is out of action)
- fewer engineering visits to machines
- reduced disruption when altering stake or prize limits or introducing new coins
- improved money handling and cash flow procedures for operators; and
- increased efficiencies for manufacturers who presently manufacture machines for the domestic and European markets.

It states that 49% of faults on jackpot machines are coin-related, either on acceptance or at payout,<sup>71</sup> and notes that it is much easier and quicker for operators to deal with banknotes and smartcards than with coins.<sup>72</sup> We note, however that in its consultation response GamCare countered the assertion that the new machines would be more reliable than the old coin-operated machines. It believed that the more complex the methods of payment into and out of a machine were, the greater the likelihood of machine breakdown.

150. The Department believes that as a result of the proposal, players will be able to receive prizes in a more convenient form.<sup>73</sup> The consultation document notes that the current top prize of £1000 (since amended to £2000) for jackpot machines operated in licensed casinos must be paid out in coins from the machine itself, and that a payout in this form may significantly burden the mechanism of the machine.<sup>74</sup>

151. We have noted above the substantial variance between the overall benefit to the industry estimated in the March 2001 consultation document—£9.5 million annually—and the estimated benefit of the proposed order, which is now set at £1.85 million, or less than 20% of the initial estimate. The Department explained that this drastic revision has come about because the proposal cannot now allow the use of smartcards, payouts in means other than coins, or the optional retention of winnings for future play, in higher-value AWP machines. The industry has expressed its frustration that the proposed reform of the law applying to jackpot machines cannot at present be fully extended to higher-value AWP machines.<sup>75</sup>

152. We asked the Department why, given the very significant reduction in overall benefits which the proposed order will now achieve, the Government has decided to press ahead

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71 Explanatory statement, para 97

72 Explanatory statement, para 100

73 Explanatory statement, para 102

74 Consultation document, para 36

75 "Legal glitch could delay parts of deregulation order", BACTA press release, 13 November 2002

with the draft order at this time and in this form. As noted above, the Department believes that there is no reason not to proceed now with “a modest package of reform that will immediately deliver small, but real, advantages to the industry”.<sup>76</sup> The Gambling Bill is expected to implement wider reforms, including those originally envisaged in the consultation paper.

### **Other benefits**

153. The Department believes that there will be benefits to gaming machine players, who will have more choice of machines, may experience greater reliability in machines paying out and who will be able to receive prizes in a more convenient form. It also identified potential benefits to machine suppliers and operators in the event that the United Kingdom adopts the euro, as operators of note-only machines would not have to have their coin acceptors replaced.

154. We asked whether gaming machines in Great Britain are at present able to accept payments in euro, and/or to pay out in euro, and whether the proposal would make any difference to these arrangements. The Department and the Gaming Board “consider it (at the least) highly probable” that current legislation allows machines to accept payment and pay out prizes in euro or other currencies subject to the sterling maxima in the 1968 Act, and they do not believe that the present proposal would alter the position.<sup>77</sup>

155. A regulatory impact assessment is at annex B of the explanatory statement. **On the basis of this and the other information provided by the Department, we are satisfied that the proposal has been the subject of, and taken appropriate account of, estimates of increases or reductions in costs or other benefits which may result from the implementation of this proposal.**

### **Drafting**

156. The explanatory statement indicates that, in relation to higher-level AWP machines, the proposal is intended to enable them to accept only coins and banknotes, and to pay out only coins and banknotes. The Department states that machines would not be able to accept money by means of any medium other than cash. But it is by no means clear that the draft order, if made, would amend the 1968 Act in this way.

157. The draft order would amend section 26(1)(b) of the Act to remove the requirement for jackpot machines to accept coins only and for higher value AWP machines to accept coins and tokens only. It would also amend subsections 34(5B) and (5D) to remove the requirement that higher-value AWP machines should accept and pay out by means of coins only. The draft order does not, however, specify what means of payment *may* be made into a higher-value AWP machine. It appears that the effect of the proposal, if made, would in fact be to enable higher-value AWP machines to accept *any* form of payment, extending to smartcards and even to credit cards.

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<sup>76</sup> Appendix B, para 66

<sup>77</sup> Appendix B, para 67

158. The explanatory statement made it clear that this outcome is not intended. We therefore drew the point to the Department's attention. The Department responded that while, at present, higher-value AWP machines are not prevented from accepting tokens as payment, in practice no machines do accept tokens in payment, as they must pay out a money prize. Even though the requirement that these machines must accept only coins or tokens in payment will be removed once section 34(5B) is amended, the requirement in section 34(5C) that the machine must deliver a money prize will remain. The Department therefore argues that in practice higher-value AWP machines will still be able to accept payment for play only by means of coins and banknotes, and not by smartcards or any other non-cash means.

159. We are not persuaded by this analysis. The Department has accepted that there is in effect a small loophole in the law, which may be enlarged once the draft order is made. It argues that the effect of the law is in practice determined by the mechanical operation of machines, and appears satisfied that the situation will not change should the draft order be made.

160. In our view, the effect of the draft order, if made, would be to leave an already complex and unclear piece of legislation even less clear than before. We find it difficult to understand why the Department should not seek to tighten the drafting of the order in order to remove the possibility that credit cards may be used for payment. This is a purely technical amendment which will have no effect on the substance of the proposal and will provide greater clarity. **We therefore recommend that the draft order be amended so as to stipulate that higher-value AWP machines may accept only coins and banknotes as payment for play.**

## 6 Conclusion

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**161. We conclude that a draft order amended as set out in paragraph 160 above should be laid before the House.**

162. We note that the Department is to lay the Gaming Board guidelines in their final form when the draft order is laid for final scrutiny. We will of course be happy to give informal consideration to the guidelines the Gaming Board proposes to issue before they are formally laid alongside the draft order.

## Written evidence

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# Appendix A

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## Letter from the Clerk of the Committee to the Department for Culture, Media and Sport

### Proposal for the Regulatory Reform (Gaming Machines) Order 2003: request for further information

Thank you for your appearance before the Committee on Tuesday, and for the helpful briefing you and your colleagues gave the Committee on the above proposal. The Committee considered the proposal at its subsequent meeting and resolved to seek further information from the Department. The issues which concern the Committee are set out below, together with questions arising from them, under the relevant categories for consideration set out in the Regulatory Reform Act and the Committee's Standing Order.

#### ***Whether the proposal removes or reduces a burden or the authorisation or requirement of a burden (S.O. No. 141(6)(b))***

1. The Department has indicated that the existing law imposes three burdens on the operators of gaming machines: (a) a requirement that payments in and out of machines may be made only in coins; (b) a requirement that machines must be able to accept payment for a single play; and (c) a requirement that machines must pay out winnings immediately. The Committee is not convinced that the Department, in paragraph 36 of the explanatory statement, has sufficiently demonstrated the nature of the burden which the existing law imposes in respect of burden (c) (retention of winnings), and on whom it considers the burden presently falls.

**Q1 Please specify the nature of the burden the Department considers is imposed by the present requirement that prizes won in one session of play on a gaming machine must be paid out at the end of that session, on whom the Department considers that burden falls, and how the proposal would reduce or remove the burden.**

#### ***Whether the proposal satisfies the tests set out in sections 1 ["proportionality"] and 3 ["fair balance"] of the Regulatory Reform Act (S.O. No. 141(6)(k))***

2. The proposal would impose a new burden on operators, by requiring operators who run jackpot machines which pay out in non-cash media to pay out the full value of a player's winnings from the operator's machines on demand by cash, cheque or a combination of the two at the premises where the machines are used for gaming.

3. The explanatory statement states that the Government believes that new burdens would be created by the draft order and by the proposed new Gaming Board guidelines. In paragraph 66 of the explanatory statement the Department appears to have treated the proposed new burden to be imposed by the draft order, and the non-statutory burdens to be imposed by the Gaming Board guidelines, together for the purposes of the proportionality test.

4. The Regulatory Reform Act provides that a regulatory reform order may create a new burden only if the test of proportionality set out in section 1 of the Act is met, and if the Minister is of the opinion that the tests of fair balance and desirability set out in section 3 are met. The Department is required by section 6(2)(f) of the Act to state how these tests are to be satisfied.

5. The Department has not, however, explained why the Government considers that the new burden of the proposed order in its own terms meets the requirements of section 1(c)(ii) of the Act.

**Q2 Please indicate why the Government believes that the new burden which would be created by the order is proportionate to the benefit which is expected to result from its creation.**

6. Paragraph 64 of the explanatory statement sets out the Government's assessment of the way in which the proposal meets the fair balance test. For the fair balance test to be satisfied in relation to the proposed new burden under section 3(2)(a) of the Regulatory Reform Act, the Minister must be satisfied that the provisions of the draft order, *taken as a whole*, strike a fair balance between the public interest and the interests of the persons affected by the burden being created.

7. As the proposed order would impose only one new burden, and as paragraph 64 refers to 'new burdens', it appears to the Committee that the Department has taken non-statutory guidelines into account in its assessment both of the way in which the order would benefit both the public interest and the interests of those persons affected by the new burden. It is not therefore clear to the Committee whether the Department's assessment of the fair balance test meets the requirements of section 3(2)(a) of the Regulatory Reform Act.

**Q3 The Department has accepted the need to make non-statutory provision for measures of protection further than those which the draft order itself contains. Please state how the Department believes that the order, taken as a whole, would strike a fair balance between the public interest and the interests of the persons affected by the burden being created.**

***Whether the proposal continues any necessary protections (S.O. No. 141(6)(c))***

8. Section 6(2)(d) of the Regulatory Reform Act requires the Minister to state "whether the existing law affected by the proposals affords any necessary protection and, if so, how that protection is to be continued". The explanatory statement does not appear to set out the Department's assessment of the protections afforded by the present legislation in the terms required by section 6(2)(d).

**Q4 Please list the relevant protections which the Department considers are contained in (a) the existing law affected by the proposals, and (b) any current Gaming Board guidelines on the operation of gaming machines which will be amended by the proposed new guidelines.**

**Q5 Please indicate the extent to which the Department considers these protections will be continued by means of (a) the proposed order and (b) the proposed new guidelines.**

**Q6 In respect of any protections the Department considers will not be continued, please indicate whether the Department considers that these are necessary protections.**

***Necessary protections: paying out on smartcard debts***

9. The present requirement that machines must pay out only by coins appears to provide a *de facto* protection for the player, in that an immediate payout of winnings from a machine in full in cash is theoretically guaranteed. The Department believes that the proposal would impose a new burden on operators by requiring those operators who run jackpot machines which pay out in non-cash media to pay out the full value of a player's winnings from the operator's machines on demand by cash, cheque or a combination of the two at the premises where the machines are used for gaming. The Department states that this new burden will act as a protection for customers.

10. The consultation document indicated (at paragraph 57) that the Government did not propose to make it a specific offence for an operator to refuse to honour a legitimate smartcard credit, but that "a consistent pattern of improper refusal to settle smartcard credits would plainly have an impact on the operator's market."

11. The Committee has noted the observations of Professor David Miers, of Cardiff University Law School, on this point in his response to the consultation document. Professor Miers has argued that it is possible to make it a criminal offence for an operator to refuse to settle smartcard debts; that the threat of market sanctions on an operator who refuses to settle smartcard credits is an insufficient form of protection, as so much depends on the nature of the local market; that the possible eventual loss of business by a recalcitrant operator does not sufficiently compensate the player whose credits would remain dishonoured; and that operators who are to be given the commercial advantages of smartcards should also have their obligations to players set out in law.

- Q7** What is the Department’s response to the specific issues raised by Professor Miers in his consultation response?
- Q8** Why it is not possible to make it a criminal offence to refuse to pay out on smartcard debts by means of the proposed order?
- Q9** What will the practical effect of the new requirement on payouts be, in terms of consumer protection?
- Q10** What recourse, if any, will a customer have in practice against an operator who refuses to comply with the new requirement?
- Q11** What sanctions in law, if any, will be available against an operator who refuses to comply with the new requirement?

12. Section 38(3) of the 1968 Act renders it an offence to contravene any provisions of section 31 of the Act “in so far as they relate to the use of machines”. Section 31(1) indicates that the provisions of section 31 are to have effect “where any machine to which [Part III of the 1968 Act] applies is used for gaming on any premises . . .”. The proposal would make provision for the immediate honouring of smartcard debts by inserting new subsections 31(3A) and (3B). The Committee considers that a breach in the requirements of those subsections would relate to the use of machines, and would therefore constitute an offence under section 38(3), but this is not clear on the face of the proposal.

- Q12** Does the Department agree that failure by an operator to honour a smartcard debt, thereby breaching the provisions of proposed new subsections 31(3A) and (3B), would constitute an offence under s. 38(3) of the 1968 Act?
- Q13** If this is so, does the Department intend that this should be the case?

#### *Necessary protections: credits to smartcards*

13. The consultation document proposed a specific safeguard to be included in the Gaming Board guidelines, namely a requirement that whenever a smartcard is withdrawn or ejected from a gaming machine, the machine shall first credit the card with all the money owing to the player. This requirement does not appear in the list of proposed guidelines in the explanatory statement.

- Q14** Why was the proposed requirement that a smartcard withdrawn or ejected from the machine should first be credited with all the monetary value owing to the player was dropped between consultation and proposal stage? For what reason is this safeguard not considered to constitute a necessary protection?

#### *Necessary protections: operation of smartcard readers*

14. The explanatory statement (at paragraph 68) indicates that Gaming Board guidelines “will provide for premises which have gaming machines which use smartcards to have smartcard readers, separate from the gaming machines, for customers to use so that they can check the amount remaining on their card without inserting it into a gaming machine.”

15. The draft Gaming Board guidelines at annex A to the explanatory statement appear to be at variance with this provision. They indicate that “a facility must be available on the premises which will show the player what credits his smartcard holds without requiring credits to be spent or a game to be played. In practice this requires that the facility is provided *by the machine* [emphasis added], where the contents of the smartcard will be shown on a display until either the player transfers money from the smartcard or withdraws the smartcard.”

- Q15** Please explain the apparent discrepancy between the Departmental policy aim, which is to require operators to provide free-standing smartcard readers, and the draft Gaming Board guidelines which are intended to achieve this aim, which indicate that it is acceptable for

smartcard readers to be built into gaming machines. Please also indicate how the draft guidelines are to be amended to resolve the discrepancy.

- Q16** Please explain how the proposed requirement for operators to provide free-standing smartcard readers can effectively be enforced by Gaming Board guidelines, given that these guidelines are addressed to, and enforceable upon, suppliers of gaming machines rather than operators.

*Necessary protections: removal of requirement to accept payment for single play*

16. GamCare, in its response to the consultation, believed that the present requirement that machines should be able to accept payment for a single play constituted an important safeguard, “especially for the occasional or casual player.” However, it raised no objection to the removal of the requirement, provided that the relevant machines would display clearly the minimum stake to be committed to play the machine, and the number of games which could be played for that stake.

- Q17** How does the Department intend to ensure that players know, in advance of committing their money to a machine, the minimum stake which has to be committed to play, and the number of games which can be played for that stake?

17. The proposal would also remove the requirement to be able to accept payment for a single play from machines which could continue to accept coins. But there would presumably no technical bar to such machines being able to accept payment for a single play. In the consultation document, the Government proposed that a requirement that coin-operated machines should be able to accept payment for a single play should be inserted into Gaming Board guidelines. However, the explanatory statement states (at paragraphs 70 and 71) that the Government now considers that it would be inappropriate for the guidelines to renew a requirement which Parliament had removed from legislation, and that in any case “not much purpose” would be served by doing so.

- Q18** Why does the Department now believe that jackpot and higher-value AWP machines which accept coins should no longer be subject to the requirement that they should be able to accept payment for a single play?

- Q19** What is the basis for the Department’s assertion that not much purpose would be served by including the requirement in Gaming Board guidelines?

*Necessary protections: retention of cash residues*

18. The proposed Gaming Board guidelines for operation of the bank meter appear to indicate that machines will be required to pay out from the bank meter only in round pound amounts: they will therefore not be required to pay out cash amounts of less than £1 remaining on the bank meter. It could be argued, however, that the flexibility of new payment methods ought to work in favour of the player as well as the operator of a machine. There does not seem to be any particularly good reason why, for example, the full amount owing to a player on a bank meter could not be credited electronically to a smartcard. The retention on the bank meter of a sum which the player could realise only by transferring it to the play meter appears to the Committee to constitute an inducement to further play.

- Q20** Please explain whether in the Department’s view the proposal, contained within the Gaming Board guidelines, to permit operators to retain sums of up to £1 which remain on a player’s bank meter, constitutes an acceptable reduction in the level of protection presently available to players of gaming machines. If so, please explain why.

*Necessary protections: operation of Gaming Board guidelines*

19. The Committee is concerned at the extent to which the apparent protections contained in the existing law are to be replaced by non-statutory guidelines for suppliers of gaming machines, to be issued by the Gaming Board. These guidelines would make detailed rules for the operation of the new types of gaming machine which the Department envisages will be able to operate lawfully in Great Britain should the proposed order be

made.

**Q21 Why does the Department believe that it is more appropriate for the safeguards to be enshrined in non-statutory and non-binding guidelines, which will not be subject to Parliamentary scrutiny or approval, rather than being set out on the face of the proposed order?**

**Q22 At what point does the Department expect the guidelines which the Gaming Board intends to issue to accompany the proposal, if made, to be finalised and issued? Under what circumstances, and under whose authority, may the guidelines subsequently be amended?**

20. GamCare, in its response to consultation, raised concerns about the present enforcement powers of the regulatory authorities. In relation to present Gaming Board guidelines on the operation of gaming machines, it stated that “the regulator’s powers to enforce compliance are only partly effective.”

**Q23 What is the Department’s assessment of the effectiveness of the Gaming Board as a certifying and enforcement authority?**

**Q24 What is the Department’s response to GamCare’s assertion that the Gaming Board’s powers to enforce compliance with its guidelines “are only partially effective”?**

**Q25 Please provide an analysis, covering the last three financial years for which figures are available, of the Board’s activities in certifying suppliers and refusing and revoking certificates; the complaints received in respect of breaches of gaming machine guidelines; the number of complaints investigated, and the resulting action taken by the Board.**

21. There are some doubts (raised at paragraphs 9 to 11 above in relation to the proposed guidelines on the provision of smartcard readers) as to the extent to which the Board is able to enforce its guidelines on the operators of gaming machines, given that it does not certify operators.

**Q26 Please explain why the Department believes the proposed guidelines can be enforced by the Gaming Board in so far as they relate to operators, and how the proposed guidelines to apply to suppliers relate to their fitness to be suppliers.**

***Whether the proposal has been the subject of, and takes appropriate account of, adequate consultation (S.O. No. 141(6)(d))***

22. The Committee notes that the Government, in the consultation document, asserted that “it seems unlikely that the way people will play machines will alter” as a result of the changes to the operation of jackpot and higher-value AWP machines which the proposal would enable.

23. The Committee has also noted the response of Professor David Miers, of Cardiff University Law School, about research into problem gambling. Professor Miers states that the Government, in its consultation document, has been content to accept industry beliefs about the proportion of winnings recycled into machines by players, and the prevalent self-limiting behaviour of the majority of players. He notes that the Government does not appear to have taken into account any of the relevant findings of the Gambling Prevalence Survey, the results of which were published in 2000. Dr Steven Miles, Director of the Centre for Research into the Social Impact of Gambling at the University of Plymouth, believed it “imperative” that research should be undertaken to address the potential impact of the changes on the patterns of consumption of gaming machine users and their likely effects on problem gambling behaviour.

24. Since the explanatory statement does not appear to address these specific issues which have been raised in consultation, the Committee is keen to be satisfied that the Department has taken adequate account of them.

**Q27 Please set out the basis for the gaming machine industry's assertion, repeated in the consultation document, that 70% of players' winnings are played back into gaming machines, and that players generally decide to limit their session expenditure.**

**Q28 Please indicate whether the Department has commissioned, or is aware of, any independent research into the effects of the new machines and payment methods on player behaviour and problem gambling; if so, what conclusions it has drawn from the research findings; and if not, why not.**

25. The Department has made at least two material changes to the proposal following consultation. The Department proposed to include the following two requirements in Gaming Board guidelines: (a) that a smartcard ejected or withdrawn from a gaming machine should automatically be credited with the full value owing to the player, and (b) that machines which were to continue to accept coins should continue to be required to accept payment for a single play. It has now decided to drop both these requirements from the proposal, both of which the Committee considers would arguably constitute forms of protection for the player.

26. Although the Department states that no changes have been made to the proposal as a result of that consultation, it seems to suggest (in paragraph 137 of the explanatory statement) that it agrees with the argument put forward by certain consultees that coin-only machines should not need to be able to accept payment for a single play

**Q29 Why did the Department not seek the views of consultees on dropping these forms of protection from the proposal?**

***Whether the proposal requires elucidation, is not written in plain English or appears to be defectively drafted (S.O. No. 141(6)(h))***

27. The proposed order would amend section 26(1)(b) of the 1968 Act to remove the requirement for jackpot machines and higher value AWP machines to accept coins. It would also amend subsections 34(5B) and (5D) to remove the requirement that higher-value AWP machines should accept and pay out by means of coins only. However, the proposed amendments to the existing law do not appear to specify what means of payment *may* be made into a higher-value AWP machine. The Committee considers that the effect of the proposal, if made, may therefore enable higher-value AWPs to accept *any* form of payment, extending to smartcards and even to credit cards. The explanatory statement makes it clear that this is not the outcome the Government intends.

**Q30 Please indicate whether the Department agrees with the Committee's analysis of the effect of the proposed order in this respect. If so, how does the Department propose to redraft the proposal to close this drafting loophole? If not, why does the Department believe that the draft order, as presently drafted, would have the effect of permitting higher-value AWP machines to accept nothing other than banknotes and coins in payment?**

***Whether the proposal has been the subject of, and takes appropriate account of, estimates of increases or reductions in costs or other benefits (S.O. No. 141(6)(m))***

28. The Department states that, because sections 34(5C) and (5D) of the 1968 Act were amended in December 2001, the operation of section 1(4) of the Regulatory Reform Act prevents their further amendment until December 2003. It believes that it is therefore not possible to amend the law to allow the use of smartcards, payouts in means other than coins, or the optional retention of winnings for future play, in higher-value AWP machines, as was proposed in the consultation document. As a result it estimates that the benefit to industry of the proposal, if made, would be reduced from £9.5 million to £1.85 million.

**Q31 Given the very significant reduction in overall benefits which the proposed order would now achieve, why the Government has decided to press ahead with the proposal at this time and in this form?**

### *Acceptance of the euro*

29. Suppliers and operators of gaming machines have identified potential benefits to industry from the draft order, in terms of reduced conversion costs, should the UK decide to adopt the euro. The Committee would like to know whether it would be possible for machine operators in, for example, Channel ports and tourist resorts, to enable gaming machines to accept payment in euro and to pay out in euro.

**Q32 Are operators of gaming machines in Great Britain at present able to accept payment into machines in euro, and/or to pay out in euro? Would the proposal lift any restrictions which presently operate in this respect?**

### *Other matters arising from the Committee's consideration (S.O. No. 141(5))*

#### *Timing and handling of the proposal*

30. The proposal is being brought forward in advance of a Gambling Bill which the Government hopes to introduce in the 2003-04 Session. The Department has explained that, because of the provisions of section 1(4) of the Regulatory Reform Act, the proposal cannot amend sections 34(5C) and (5D) of the Gaming Act 1968 to make provision for the use of smartcards in higher-value AWP machines.

**Q33 Why were the implications of amending sections 34(5C) and (5D) of the 1968 Act in December 2001 not realised, given that the provisions of the proposed order, and of the Regulatory Reform Bill, were known as early as March 2001?**

**Q34 How soon after the expiry of the 60-day period for Parliamentary consideration (presently estimated to expire on 4 June 2003) does the Department envisage being able to lay the draft of this order before Parliament?**

**Q35 Assuming Parliamentary approval of the draft order, when does the Minister expect to be in a position to make the order?**

**Q36 What is the earliest date on which the Minister would be able to make a regulatory reform order in the terms envisaged in the March 2001 consultation document, having regard to the provisions of section 1(4) of the Regulatory Reform Act?**

31. The Department has indicated that the technical standards set out in the proposal and the accompanying guidance lay down technical standards of a type of which the European Commission must be notified.

**Q37 Please indicate the date on which notification of the proposed new technical standards was made to the Commission, and when the Department expects to receive clearance of the new standards.**

I would be grateful to receive your response to the above questions, together with any further information the Department believes would be helpful, as soon as possible, and in any case not later than Thursday 17 April. Could you please ensure that you send a copy of your response to the Clerk of the House of Lords Committee on Delegated Powers and Regulatory Reform, Christine Salmon.

3 April 2003

## Appendix B

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### Letter to the Clerk of the Committee from the Department for Culture, Media and Sport

#### Proposal for the draft Regulatory Reform (Gaming Machines) Order 2003: request for further information

Thank you for your letter of 3 April seeking further information about this draft Order. We are happy to help.

2. I set out our answers to the Committee's 37 questions below. Our answers are of course to be read in conjunction with the narrative in your letter, which I have not sought to repeat.

3. We are as you ask sending a copy of this letter to the Clerk of the House of Lords Committee on Delegated Powers and Regulatory Reform. We will be replying to her separate letter shortly.

#### *Whether the proposal removes or reduces a burden*

**Q1 Please specify the nature of the burden the Department considers is imposed by the present requirement that prizes won in one session of play on a gaming machine must be paid out at the end of that session, on whom the Department considers that burden falls, and how the proposal would reduce or remove the burden.**

4. We assume that in referring to "burden" in this question, the Committee are using that term as having the specific meaning given by the Regulatory Reform Act 2001. Section 2 of the RRA defines burden as meaning "*a restriction, requirement or condition...*" and under section 1 of the Act the burdens which may be removed by a Regulatory Reform Order are those "*affecting persons in the carrying on of any activity*".

5. Looked at on this basis, we take the view that the primary burden is the requirement imposed on those persons who are potentially liable – as the Committee has noted elsewhere – for an offence under section 38 to ensure that, where they operate any gaming machine on premises, the machine complies with the condition imposed by section 31(4) and (5) or (as the case may be) section 34(5C). Section 34(5C) prohibits an AWP machine from retaining winnings for further play. The same necessarily applies to jackpot machines, by virtue of sections 31(4) and (5) as those provisions currently have effect.

6. The proposal would remove this burden in relation to jackpot machines by relieving the relevant persons from having to comply with this requirement. In practical terms, the effect of the burden which the law imposes is that the payment mechanism of the machine undergoes considerable wear and tear as coins are paid in and out, and the Order would reduce that wear and tear. Players replaying their winnings would not be using the coin-op mechanisms to put their winnings back in, and there would be fewer separate occasions when the mechanism was operated to pay money out.

7. The burden which the law imposes has a corresponding effect upon players since, if they want to use their winnings for further play, they must first get the machine to pay them out, and then re-insert them. The Order would mean that players who wanted to carry on would no longer have to go through this process.

#### *Whether the proposal satisfies the tests in sections 1 ('proportionality') and 3 ('fair balance')*

**Q2 Please indicate why the Government believes that the new burden which would be created by the Order is proportionate to the benefit which is expected to result from its creation.**

8. As the Committee has noted, the burden which is created by the Order itself (as distinct from burdens in the Gaming Board guidelines) is that contained in Article 2(4) of the draft Order, inserting into section 31 of the Gaming Act a provision that smartcards (or other 'objects') used to play jackpot machines are '*redeemable*

on demand at the premises where the machine is used for gaming at any time when a machine to which this Part of the Act applies is available for use for gaming at those premises'. In other words, the operator of the premises has to pay out on the card on demand, as long as the premises are open.

9. The benefit which arises from this burden is that the player of a machine using a smartcard or other non-cash payment method will be able to recover any money that he has won or that remains credited to the smartcard. Gaming debts are not enforceable in law, and the Department considers that a requirement that machines take smartcards that are redeemable on demand is both reasonable and proportionate to the benefits which operators may derive from the opportunity to run smartcard machines.

**Q3 The Department has accepted the need to make non-statutory provision for measures of protection further than those which the draft order itself contains. Please state how the Department believes that the order, taken as a whole, would strike a fair balance between the public interest and the interests of the persons affected by the burden being created.**

10. There is a public interest in increasing the efficiency of the gaming machines sector of the leisure industry and also, of course, in ensuring that machines are operated in ways which do not give rise to substantial risks of encouraging players to use machines excessively. There are two categories of persons affected by the burden being created – machine operators and players.

11. The Department believes that the Order strikes a fair balance in these respects. Operators support the change in the law, recognising that the new burden only arises as part of a larger freedom to configure their machines in a more efficient way. The Department believes that players cannot be in a less advantageous position than at present since they will, in practice, be assured of payment of any winnings on demand.

### **Necessary protections**

**Q4 Please list the relevant protections which the Department considers are contained in (a) the existing law affected by the proposals, and (b) any current Gaming Board guidelines on the operation of gaming machines which will be amended by the proposed new guidelines.**

12. There are three protections in the law. The first derives from the fact that players must play in coin (for jackpot machines, s. 31(3) of the Gaming Act 1968, and for higher-value AWP machines, s.34(5B)). Taken together with the fact that the highest value coin is £2, this means that players must make a separate decision to commit each new unit of £2, or less, to play. The proposals affect this requirement in the case both of jackpot and higher-value AWP machines.

13. The second protection in the law is that players are paid out in cash when they win. The Order affects this requirement as it applies to jackpot machines, but not as it applies to higher-value AWP machines. This protection in respect of jackpot machines appears at section 31(4) of the 1968 Act.

14. The third protection in the law is that machines should be able to accept payment for a single play. The Order affects this protection as it applies to both jackpot and higher-value AWP machines. For jackpot machines, it appears at section 31(3) of the 1968 Act, and for higher-value AWP machines it appears at section 34(5B), read together with section 34(2). In both cases, it is the reference to the '*charge for play for playing a game once by means of the machine shall be a coin or coins of an amount not exceeding...*' which is interpreted as meaning that the machine must be capable of taking payment for a single play.

15. The Gaming Board is not amending any of its existing guidelines.

**Q5 Please indicate the extent to which the Department considers these protections will be continued by means of (a) the proposed order and (b) the proposed new guidelines.**

16. The guidelines will ensure that the maximum amount that players can commit to play – without making a separate decision to commit further money to play – is £2, and the Order requires that players are paid out either in cash or by non-cash means which are redeemable on demand.

17. The Department considers that both these protections are entirely equivalent to what currently exists in

these areas. As explained elsewhere in this document (please see answer to Question 16) the Board's guidelines apply to all licensed suppliers of gaming machines. Players can rely on the Board's guidelines applying to any machine which they might use.

18. The Department considers that there is no significant difference so far as the player is concerned between being paid out in cash directly by a machine and being paid out by non-cash means which are redeemable on demand at the premises.

19. The third protection – that machines should be able to accept payment for a single play – is not being continued. See Q6 below.

**Q6 In respect of any protections the Department considers will not be continued, please indicate whether the Department considers that these are necessary protections.**

20. The only protection which is not being continued is that machines should be able to accept payment for a single play. As explained in the Home Office's March 2001 consultation document (para 50) this is not a necessary protection. It does not add to consumer safeguards to have law which requires that players must always be able to insert, in effect, their loose small change into a gaming machine.

***Paying out on smartcard debts***

**Q7 What is the Department's response to the specific issues raised by Professor Miers in his consultation response?**

21. We referred to Professor Miers' analysis at paragraph 141 of the explanatory statement to this draft Order. As we said there, the Government has made it clear that the forthcoming overall Bill on gambling will propose the repeal of the provisions of the Gaming Act 1845 which make gambling debts unenforceable in law.

22. The Government believes that this will be a change of considerable importance, and it is right that Parliament should have the opportunity to consider it as part of a Bill and in the context of the controls on gambling as a whole. Although it might have been technically possible to disapply the 1845 Act from gaming machine smartcard debts as part of this Order, that would have created a situation in which these relatively small debts were legally enforceable while far larger ones, for instance in connection with betting or casinos, would not be. The Government sees no merit in that.

23. More generally the Department does not agree with Professor Miers' pessimistic assessment of the operation of the market in this area. The Order would allow smartcards to be used by machines in casinos, bingo clubs, and members' clubs. Casinos and bingo clubs operate under licence from the Magistrates and are subject to monitoring by the Gaming Board. We consider it highly unlikely in these circumstances that they would refuse to pay out on a legitimate gaming machine debt. But if they did, the Gaming Board would have to give consideration to applying for cancellation of their licence.

24. Members' clubs need Magistrates' permits for their machines. It seems improbable that they would refuse to pay out on a gaming machine prize legitimately won by a member or guest. Club members would be able to have recourse to the club's own procedures if they did.

**Q8 Why it is not possible to make it a criminal offence to refuse to pay out on smartcard debts by means of the proposed order?**

25. We have not said that it is not possible to make this a criminal offence. But we believe that this would be a disproportionate response, particularly as the Gambling Bill will not propose that non-payment of a gambling debt will be a criminal offence. It will instead allow for debts to be enforceable through civil process.

26. As the Committee has observed there is an offence in terms of operating an unlawful machine (section 38 of the Gaming Act – see Question 11 below) which may be applicable in some circumstances.

**Q9 What will the practical effect of the new requirement on payouts be, in terms of consumer protection?**

27. The Gaming Act defines the maximum prizes from gaming machines, but it does not require operators to pay them. The Department considers that defining smartcard and other non-cash payment methods, as the Order does, in terms of an obligation to pay out on them provides players with a safeguard which balances the extra latitude which the Order gives to operators.

**Q10 What recourse, if any, will a customer have in practice against an operator who refuses to comply with the new requirement?**

28. If a casino or bingo operator refused to pay a winning customer, the customer would be able to complain either to the Gaming Board or to the local licensing authority. They would need to take that into consideration when determining whether the operator was a fit and proper person to hold the relevant licence.

29. As we have said in answer to question 7, it seems improbable that a members' club would refuse to pay out on a gaming machine prize legitimately won by a member or guest. Club members would be able to have recourse to the club's own procedures if they did.

**Q11 What sanctions in law, if any, will be available against an operator who refuses to comply with the new requirement?**

30. If an operator consistently refuses to honour smartcards he has issued for play on his machine, he could arguably be said to be operating a machine which contravenes the requirements of section 31 of the Gaming Act. That could render him liable to prosecution under section 38. But see the answer to question 12 below.

31. It is difficult to envisage circumstances in which proceedings under s.38 might happen. The Order allows for smartcards to be used only in bingo clubs, casinos, and registered clubs. The courses of action which we have set out in answer to questions 7 and 10 offer in our view a much more plausible scenario for what might happen in such circumstances, were they to occur.

**Q12 Does the Department agree that failure by an operator to honour a smartcard debt, thereby breaching the provisions of proposed new subsections 31(3A) and (3B), would constitute an offence under s. 38(3) of the 1968 Act?**

32. In the case of a one-off or occasional failure, rather than a consistent pattern of refusal, we consider that the answer to this question is No. The obligations which the new provisions impose relate to the type of object that can be inserted in the machine in order to play it – that is, one that is redeemable on demand. We do not consider that this directly imposes a requirement to redeem a smartcard. Such a result might be achieved were failure to redeem the smartcard (or other 'object') to be taken as showing that it was not in fact 'redeemable' as the new provisions require. But as already explained we find it difficult to envisage practical circumstances in which this might happen.

**Q13 If this is so, does the Department intend that this should be the case?**

33. It is not so.

**Credits to smartcards**

**Q14 Why was the proposed requirement that a smartcard withdrawn or ejected from the machine should first be credited with all the monetary value owing to the player dropped between consultation and proposal stage? For what reason is this safeguard not considered to constitute a necessary protection?**

34. Such a requirement would be impractical. If the player inserts a smartcard, he can download separate tranches of £2 until he gets to £20, at which point his card is automatically ejected. If the original proposal were implemented, all the credits would then have to be put back on the card, leaving the player unable to play.

35. The guidelines do not require smartcard machines to credit a player with all the money he has won when

he withdraws his card from the machine. They allow for money to be credited to the card in units of £1, so that a player who has won £2.50 may, under the guidelines, get only £2 of that credited to his card.

36. This gives consistency in terms of the guidelines with cash (banknote) machines. The guidelines do not require these to pay out in units of less than £1.

### *Smartcard readers*

**Q15 Please explain the apparent discrepancy between the Departmental policy aim, which is to require operators to provide free-standing smartcard readers, and the draft Gaming Board guidelines which are intended to achieve this aim, which indicate that it is acceptable for smartcard readers to be built into gaming machines. Please also indicate how the draft guidelines are to be amended to resolve the discrepancy.**

37. See answer to Question 16.

**Q16 Please explain how the proposed requirement for operators to provide free-standing smartcard readers can effectively be enforced by Gaming Board guidelines, given that these guidelines are addressed to, and enforceable upon, suppliers of gaming machines rather than operators.**

38. We do not think that a separate smartcard reader is necessary. It is better for the player to have a reader conveniently sited in the machine he is playing. This will also aid enforcement, since the Board can exert more direct control over the suppliers and manufacturers who will install them. The Gaming Board does not licence manufacturers. However, it has a close relationship with them. If the Board has objections to a particular machine that a manufacturer has made, it can exert its influence on the suppliers (who it does licence) not to use or site it.

### *Single play*

**Q17 How does the Department intend to ensure that players know, in advance of committing their money to a machine, the minimum stake which has to be committed to play, and the number of games which can be played for that stake?**

39. Every gaming machine which the Gaming Board is aware of shows the price of a game on its face. It has never been necessary to require this by guideline, but in the unlikely event that manufacturers were to stop doing this the Board would press them. That could well lead to new guidelines being issued to cover the point. The intention is that the player should always easily be able to know how much it will cost to play on the machine.

**Q18 Why does the Department now believe that jackpot and higher-value AWP machines which accept coins should no longer be subject to the requirement that they should be able to accept payment for a single play?**

40. We did not on reflection see it as necessary or logical to require coin only machines to require payment for a single play when machines taking banknotes do not. We also discuss this issue at Question 6.

**Q19 What is the basis for the Department's assertion that not much purpose would be served by including the requirement in Gaming Board guidelines?**

41. We concluded that this should be a commercial matter for the industry to decide. It will need to strike a balance between attracting casual players and installing the mechanisms needed to accept coins for a single play.

### *Retention of cash residues*

**Q20 Please explain whether in the Department's view the proposal, contained within the Gaming Board guidelines, to permit operators to retain sums of up to £1 which remain on a player's**

**bank meter, constitutes an acceptable reduction in the level of protection presently available to players of gaming machines. If so, please explain why.**

42. We think that this is acceptable, since machines which only accept £1 or £2 coins will not have lower value coinage to pay out smaller amounts. So far as inducing further play is concerned, we take the view that the issue in terms of player protection is whether the player has to pay for that further play. For example, the maximum permissible stake for a single game on a jackpot machine, which the Order would allow to take smartcards, is 50p (though many such machines have a lower stake). If the player has 90p left on the machine, and this is not going to be credited to his card, he can use 50p of that to play a last single game. There will be only 40p left over.

43. The player could then add another 10p to the machine to obtain a further final game. But a similar situation already applies to existing gaming machines – there are often occasions when a small amount of money, not enough for a single game, is left in the machine. The Order would introduce nothing new in that regard.

### ***Gaming Board guidelines***

**Q21 Why does the Department believe that it is more appropriate for the safeguards to be enshrined in non-statutory and non-binding guidelines, which will not be subject to Parliamentary scrutiny or approval, rather than being set out on the face of the proposed order?**

44. Because that makes them easier to adapt to circumstances in the light of a rapidly-changing, high-tech industry. Although the Gaming Board's guidelines are non-binding, the industry adheres to them.

45. The guidelines system works well. The core protections have always been, and will remain, in the legislation. The proposals do not significantly alter the overall balance between protections which are in the legislation and those which are not.

**Q22 At what point does the Department expect the guidelines which the Gaming Board intends to issue to accompany the proposal, if made, to be finalised and issued? Under what circumstances, and under whose authority, may the guidelines subsequently be amended?**

46. The guidelines will be ready when we lay the Order at second stage. They are issued under the authority of the Gaming Board, who will discuss any possible amendments to them with the Department before these are issued.

47. It is difficult to speculate about circumstances in which the Board may wish to amend its guidelines. Our answer to question 17 suggests one scenario in which that might happen, though we think it unlikely.

**Q23 What is the Department's assessment of the effectiveness of the Gaming Board as a certifying and enforcement authority?**

48. The Department recognizes the Gaming Board as a highly effective and competent regulator. The British gaming industry – including its gaming machines component – has a high reputation internationally for integrity, reflecting the work of the Board over the last 30 years in controlling entry to the industry and regulating its detailed performance through its certification and enforcement powers and through codes of practice and guidances.

**Q24 What is the Department's response to GamCare's assertion that the Gaming Board's powers to enforce compliance with its guidelines "are only partially effective"?**

49. We accept GamCare's concern, which reflects the indirect nature of the control which the Board can bring to bear in this instance. Indirect though they may be, however, the Department considers that the Board's powers will be effective in this instance.

**Q25 Please provide an analysis, covering the last three financial years for which figures are available, of the Board's activities in certifying suppliers and refusing and revoking certificates; the complaints received in respect of breaches of gaming machine guidelines; the number of complaints investigated, and the resulting action taken by the Board.**

50. The Gaming Board does not prepare formal analyses of breaches of its gaming machines guidelines. These are extremely rare. Should a breach occur, the Board would deal with it by discussion with the supplier or the manufacturer. Ultimately, the Board can if need be remove a supplier's licence, but it would be unprecedented for this to happen as a result of an operator not adhering to the guidelines. The supplier would have a very great deal to lose.

51. The numbers of registered suppliers and of refusals and revocations in each of the last three years are as follows -

	1999-00	2000-01	2001-02
Number of S27 certificate holders registered with GB	773	679	678
Revocations and refusals	2	1	1

**Q26 Please explain why the Department believes the proposed guidelines can be enforced by the Gaming Board in so far as they relate to operators, and how the proposed guidelines to apply to suppliers relate to their fitness to be suppliers.**

52. The Board does not certify operators as such. However, that does not mean that the Board is without power to control the characteristics of the gaming machines on an operator's premises. Operators can only be supplied with their machines through companies holding the Board's gaming machine supplier certificate under section 27 of the Gaming Act. The Gaming Board's guidelines bite on these suppliers, and as explained in response to Question 16 they also bite indirectly but effectively on the manufacturers of the machines.

53. Aside from that, the Board directly regulates two of the three types of location in which jackpot machines with smartcards will be able to be used. The Board issues consent certificates to both bingo clubs and casinos. These extremely valuable certificates – without which a bingo club or casino cannot operate - fall to be renewed yearly (and can be cancelled at any time). The Board would take serious account of any non-adherence to its machine guidelines in deciding whether to apply to the Magistrates for the revocation of a casino or bingo club's licence.

54. The other location where smartcard machines will be able to be used is the registered club. Although these are registered with the Magistrates, the Gaming Board does not licence them. But quite apart from the Board's control over their suppliers – which applies to registered clubs as it does to any other premises with gaming machines – club members themselves would voice their concern if there were a pattern of irregularity or unfairness, in particular if it involved not paying out on a smartcard.

### **Adequate consultation**

**Q27 Please set out the basis for the gaming machine industry's assertion, repeated in the consultation document, that 70% of players' winnings are played back into gaming machines, and that players generally decide to limit their session expenditure.**

55. Both estimates come from studies carried out by the industry itself. The 70% figure derives from an analysis that JPM (a leading manufacturer of gaming machines) carried out, based upon live data from machines in pubs and betting shops which had been electronically linked to a central system which recorded

details of use by players.

56. The gaming machines industry view that players decide to limit their session expenditure derives from a poll conducted by their trade association, BACTA. The consensus of leading operators was that the majority of players generally limit their expenditure, determining in advance how much they are prepared to spend (in effect, to lose) during a particular session and sticking to it.

**Q28 Please indicate whether the Department has commissioned, or is aware of, any independent research into the effects of the new machines and payment methods on player behaviour and problem gambling; if so, what conclusions it has drawn from the research findings; and if not, why not.**

57. The Department itself has commissioned no research specifically on the Order. Such research would be difficult to carry out in advance of the Order being made. The independent Gambling Review Body however reviewed a wide range of research evidence relating to machine gambling behaviour before endorsing the current proposal.

58. We are aware of a further review of the research evidence commissioned by the Gambling Industry Charitable Trust and carried out by independent consultants. This points to evidence that machines can be set up in ways which increase the risks of excessive play, but it does not identify any additional evidence to suggest that there are significant risks in allowing players to insert value into the machines in one form rather than another.

**Q29 Why did the Department not seek the views of consultees on dropping these forms of protection from the proposal?**

59. We have explained above (Q.6, Q.18 and Q.20) why we have taken the decision we have in respect of the requirement about payment for a single play and crediting small amounts to smartcards.

60. The substance of the issue of accepting payment for a single play had already been raised in the initial Home Office consultation document, and its abandonment in the case of coin-only machines did not raise any separate issues. The position we envisage whereby machines can retain small amounts of money is essentially no different from what pertains at present. In neither case did we consider that issues of principle had arisen which would have required a further round of consultation.

***Whether the proposal requires elucidation, is not written in plain English, or appears to be defectively drafted***

**Q30 Please indicate whether the Department agrees with the Committee's analysis of the effect of the proposed order in this respect. If so, how does the Department propose to redraft the proposal to close this drafting loophole? If not, why does the Department believe that the draft order, as presently drafted, would have the effect of permitting higher-value AWP machines to accept nothing other than banknotes and coins in payment?**

61. As things stand higher-value AWP machines, though in practice they operate on a coin only basis, are not prevented by law from accepting tokens as a form of payment. Section 34(5B) provides for the charge for play to be the same as that under section 34(2). Section 34(2) provides for both coins and tokens.

62. What in practice makes higher value AWP machines coin only is the restriction in subsection (5C) that the machines can only pay out a money prize. The fact that prizes can only in practice be made available for machines through the availability of the monies used to play the machines means in practice that higher value AWP machines are coin only.

63. The same practical reality will apply once the coins/ tokens only restriction has been removed by the amendment to section 34(5B). Therefore, whilst section 34(5B) as proposed to be amended will not directly impose a cash only restriction on the charge for play, and therefore on the face of it would allow non-cash forms of payment such as smartcards or credit cards, this restriction is imposed in practice by the money prize requirement imposed by section 34(5C).

64. Also, so far as smartcards are concerned, there will arguably be no change to the present position. As explained at paragraphs 67-72 of the Home Office consultation document, the Gaming Board already accepts that the Courts might rule that current law on AWP machines, in allowing them to accept payments by 'token' would also cover credits on a smartcard.

65. In the longer term, the Government intends that the proposed Gambling Bill will specifically prohibit the use of credit cards in all gaming machines.

***Whether the proposal has been the subject of and takes appropriate account of estimates of increases or reductions in costs and other benefits***

**Q31 Given the very significant reduction in overall benefits which the proposed order would now achieve, why has the Government decided to press ahead with the proposal at this time and in this form?**

66. The Department sees no reason not to proceed now with a modest package of reform that will immediately deliver small, but real, advantages to the industry. It hopes to be able to bring forward a wider Gambling Bill next session, but at this stage of course Ministers are not in a position to make any commitments with respect to the availability of Parliamentary time.

**Q32 Are operators of gaming machines in Great Britain at present able to accept payment into machines in euro, and/or to pay out in euro? Would the proposal lift any restrictions which presently operate in this respect?**

67. The Department and the Gaming Board consider it (at the least) highly probable that the current legislation allows machines to take payments, and make prizes, in Euros or any other currency so long as the amounts in question do not exceed the maxima expressed in Sterling in the Gaming Act. The proposal would make no difference to the position.

***Other matters***

**Q33 Why were the implications of amending sections 34(5C) and (5D) of the 1968 Act in December 2001 not realised, given that the provisions of the proposed order, and of the Regulatory Reform Bill, were known as early as March 2001?**

68. The Order was not drafted until later in 2002. Until that point in time specific consideration had not been given to the particular amendments that would be required to give effect to the proposals set out in the consultation document.

69. Even when, on drafting the order, it was appreciated that section 34(5C) and (5D) would require amendment in a way that might be incompatible with section 1(4) of the Regulatory Reform Act 2001, the point was not clear cut. Section 1(4) prevents changes to the law contained in any "provision" of an Act if that provision has been amended by an Act etc. which has been passed not more than 2 years before the date on which the order is made. It was not immediately clear that the elements of section 34(5C) and (5D) which were amended- ie those that set the maximum value of the prize from a higher- value AWP machine- formed part of the same "provision" as those which laid down the means by which a prize is to be delivered.

70. Had this problem been appreciated in late 2001 when the maximum value laid down in sections 34(5C) and (5D) was changed, it would have been necessary for the Government to consider whether that uprating should go ahead. As the industry were urgently pressing for the increase to £25, and the Gaming Board had endorsed it, it is by no means clear that the Government would have decided to delay it in favour of the prospective - and at that point still undrafted - Regulatory Reform Order.

**Q34 How soon after the expiry of the 60-day period for Parliamentary consideration (presently estimated to expire on 4 June 2003) does the Department envisage being able to lay the draft of this order before Parliament?**

71. Subject to the Committee's report and the report from the Delegated Powers and Regulatory Reform Committee of the House of Lords, and to the Government's consideration of these reports, we would hope to be able to lay the Order at its second stage in late June.

**Q35 Assuming Parliamentary approval of the draft order, when does the Minister expect to be in a position to make the order?**

72. Depending on the availability of Parliamentary time, before the Summer Recess.

**Q36 What is the earliest date on which the Minister would be able to make a regulatory reform order in the terms envisaged in the March 2001 consultation document, having regard to the provisions of section 1(4) of the Regulatory Reform Act?**

73. 9 December 2003

**Q37 Please indicate the date on which notification of the proposed new technical standards was made to the Commission, and when the Department expects to receive clearance of the new standards.**

74. The Commission received the notification on 7 March 2003. Member States are required to observe a three month standstill period before the regulation is made or brought into force. This is to provide an opportunity for the Commission and other Member States to comment if they consider that the proposed regulation has the potential to create a technical barrier to trade. The standstill period ends on 9 June 2003.

75. The notification, number 2003/0088/UK, can be viewed on the European Commission's web site at <http://europa.eu.int/comm/enterprise/tris>

14 April 2003

## Appendix C

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### Letter from the Clerk of the Committee to the Chief Executive, GamCare

#### Proposal for the Regulatory Reform (Gaming Machines) Order 2003: request for further information

As you may be aware, the Department for Culture, Media and Sport laid a proposal for the above order before Parliament on 13th March, under section 6 of the Regulatory Reform Act 2001. I enclose a copy of the proposal documents, comprising a draft order and an explanatory statement prepared by the Department. The Department has also provided the Regulatory Reform Committee with copies of the responses to a consultation undertaken on the proposal by the Home Office between March and June 2001.

The Regulatory Reform Committee is charged with examining this proposal, under House of Commons Standing Order No. 141. It considered the proposal, and the consultation responses, at its meeting on 1 April.

One of the Committee's tasks, in examining the proposal, is to determine whether the proposal will continue the necessary protections in those provisions of the existing law which the proposal seeks to amend. The Department proposes to continue several safeguards for the player by means of guidelines for suppliers of gaming machines, issued by the Gaming Board and enforceable on suppliers.

The Committee was concerned to note that GamCare, at paragraph 60 of its response to the 2001 consultation, believed that the enforcement powers of the regulating authorities (which the Committee takes to mean the Gaming Board, regulating in respect of gaming machines) should be improved, "as, despite the

assertion in the consultation document, it is our understanding that the regulator's powers to enforce compliance are only partially effective."

In its explanatory statement accompanying the draft order the Department has not addressed this specific point. It has, however, stated that the Gaming Board can enforce its guidelines effectively, and has set out its reasons at paragraph 59 of the explanatory statement.

The Committee would like to give GamCare the opportunity to provide evidence to substantiate its assertion, set out above, that the powers of the regulator to enforce compliance with its guidelines are only partly effective. In doing so GamCare may wish to comment on the arguments set out by the Department in the explanatory statement. The Committee has also asked the Department for its comments on the specific point raised by GamCare.

It would be very helpful to the Committee to receive GamCare's response as soon as possible, and preferably not later than Wednesday 16 April. Could you please ensure that you copy your response to Christine Salmon, Clerk of the House of Lords Committee on Delegated Powers and Regulatory Reform,

*3 April 2003*

## Appendix D

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### **Letter to the Clerk of the Committee from the Chief Executive, GamCare**

Thank you for your letter and enclosures of 3 April and we are pleased to respond to your request.

Our reference to 'partially effective enforcement powers' in paragraph 60 of our consultation response relates to the situation regarding illegally sited all cash and jackpot machines.

BACTA, the Gaming Board and GamCare (through anecdotal evidence from helpline and counselling clients) receive, from time to time, information that some cafes, taxi offices, snooker clubs and other venues install 'all-cash' and/or jackpot machines.

Under current law the Gaming Board do not themselves have the power to enforce and are reliant on the police force to have illegally sited machines removed. The police, perhaps understandably, do not see this as a priority area and, we understand, this might be given an even lower priority when there are sensitive community issues at stake. In cases where the Local Authority takes an interest we understand enforcement is a little better.

Consequently, despite the tight regulation of these machines that are legally sited in pubs, LBO's, gaming centres, clubs, bingo clubs or casinos a number of unscrupulous operators exploit the system and, to our knowledge, are rarely prosecuted.

Under proposed legislation the Gambling Commission and Local Authorities will have power to enforce and it is to be hoped that the number of illegally sited machines will be reduced.

May we take this opportunity to remark that, notwithstanding the above concern, GamCare is pleased to note that the proposed regulatory reform contains necessary safeguards to minimise harm.

*3 April 2003*

## Formal minutes

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**Tuesday 20 May 2003**

Members present:

Mr Peter Pike, in the Chair

Mr Dai Havard

Mr Mark Lazarowicz

Mr John MacDougall

Mr Denis Murphy

Dr Doug Naysmith

Andrew Rosindell

Brian White

The Committee deliberated.

Draft Report (Proposal for the Regulatory Reform (Gaming Machines) Order 2003), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.—(*The Chairman.*)

Paragraphs 1 to 162 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Thirteenth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

Several papers were ordered to be appended to the Report.

*Ordered*, That the Appendices to the Report be reported to the House.—(*The Chairman.*)

[Adjourned till Tuesday 1st July at 9.30 a.m.]

# Reports from the Regulatory Reform Committee since 2001

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The following reports were published during the previous Session of Parliament by the Regulatory Reform Committee under its previous name, the Deregulation and Regulatory Reform Committee.

## Session 2001-02

First	Proposal for the Regulatory Reform (Special Occasions Licensing) Order 2001	265
Second	Draft Regulatory Reform (Special Occasions Licensing) Order 2001	388
Third	Draft Deregulation (Disposals of Dwelling-Houses By Local Authorities) Order 2001	449
Fourth	Proposal for the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002	583
Fifth	<ul style="list-style-type: none"> <li>• Draft Deregulation (Restaurant Licensing Hours) Order 2002</li> <li>• Draft Deregulation (Bingo and other Gaming) Order 2002</li> <li>• Proposal for the Regulatory Reform (Golden Jubilee Licensing) Order 2002</li> </ul>	599
Sixth	Proposal for the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002	663
Seventh	<ul style="list-style-type: none"> <li>• Draft Regulatory Reform (Golden Jubilee Licensing) Order 2002</li> <li>• Draft Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002</li> </ul>	677
Eighth	Proposal for the Regulatory Reform (Carer's Allowance) Order 2002	691
Ninth	<ul style="list-style-type: none"> <li>• Draft Deregulation (Correction of Birth and Death Entries in Registers or Other Records) Order 2002</li> <li>• Proposal for the Regulatory Reform (Vaccine Damage Payments Act 1979) Order 2002</li> </ul>	708

Tenth	<ul style="list-style-type: none"> <li>• Draft Regulatory Reform (Housing Assistance) (England and Wales) Order 2002</li> <li>• Draft Regulatory Reform (Carer's Allowance) Order 2002</li> </ul>	807
First Special Report	Further report on the Handling of Regulatory Reform Orders	389

The following Reports were published by the Regulatory Reform Committee during the previous Session of Parliament under its current name.

#### Session 2001-02

Eleventh	Draft Regulatory Reform (Vaccine Damage Payments Act 1979) Order 2002	867
Twelfth	Proposal for the Regulatory Reform (Removal of the 20 Member Limit) Order 2002	1104
Thirteenth	Proposal for the Regulatory Reform (Sugar Beet Research and Education) Order 2003	1247
Fourteenth	Draft Regulatory Reform (Removal of 20 Member Limit in Partnerships Etc.) Order 2002	1303
Second Special Report	The Operation of the Regulatory Reform Act: Government Response to the Committee's First Special Report of Session 2001-02	1029
Third Special Report	The Handling of Regulatory Reform Orders (III)	1272

The following reports have been published during the present Session of Parliament.

#### Session 2002-03

First	<ul style="list-style-type: none"> <li>• Proposal for the Regulatory Reform (Credit Unions) Order 2002</li> <li>• Proposal for the Regulatory Reform (Special Occasions Licensing) Order 2002</li> </ul>	82
Second	Proposal for the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003	182
Third	Proposal for the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003	183
Fourth	Draft Regulatory Reform (Special Occasions Licensing) Order 2002	193

Fifth	Proposal for the Regulatory Reform (Housing Management Agreements) Order 2003	328
Sixth	<ul style="list-style-type: none"> <li>• Draft Regulatory Reform (Credit Unions) Order 2003</li> <li>• Draft Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003</li> </ul>	329
Seventh	Proposal for the Regulatory Reform (Schemes under Section 129 of the Housing Act 1988) (England) Order 2003	436
Eighth	Draft Regulatory Reform (Housing Management Agreements) Order 2003	520
Ninth	Proposal for the Regulatory Reform (British Waterways Board) Order 2003	521
Tenth	Proposal for the Regulatory Reform (Schemes under Section 129 of the Housing Act 1988) (England) Order 2003	549
Eleventh	Draft Regulatory Reform (Sugar Beet Research and Education) Order 2003	591
Twelfth	Draft Regulatory Reform (British Waterways Board) Order 2003	682

All reports are available from The Stationery Office.