



SKILL WITH PRIZES MACHINES

- The Gambling Commission and HM Revenue & Customs have published a joint statement to clarify the classification of gaming machines which are designed to look like games of chance. This follows the marketing of such games by some manufacturers as being skill with prizes machines and hence outside the scope of licensing control and AMLD.
- Following recent court cases about whether poker in particular was a game of skill and hence outside of gaming laws or a game of chance and therefore needing to be licensed and could only be played in dedicated gambling premises, some machine manufacturers had sought to argue that machines which included such games were SWPs rather than AWP. If accepted, this would have allowed arcades and other unlicensed premises to site such machines on their premises and to avoid payment of AMLD.
- The statement confirms that bingo, poker and roulette are all games of chance, not games of skill and that any machine which replicates the experience of playing these games is a gambling machine for the purposes of licensing control and duty. This applies regardless of what it the game is called or how it is marketed. The definition is dependent upon how the game is presented to the player not just its description.
- Games of chance can only be sited on premises with the necessary permissions or permits in place and will count towards the number of machines allowed in a pub either as part of the automatic provision or as specified on the premises licence. AMLD will also apply.
- The statement goes on to confirm that a machine can only be classified as a skills with prizes machine and outside the regulatory structure if there is absolutely no element of chance to the game.

Actions for Operators

- Operators who have SWP machines and are unsure whether they fall within the definition of a game of chance can call the HMRC helpline on 0845 010 9000 with details of the game. They will clarify whether AMLD is payable on the machine and whether the game is SWP or AWP. If you are unsure, you are advised to check liability before making a machine available to play.
- BACTA, the trade association representing machine suppliers and manufacturers has expressed concern about the wording of the statement. They believe it to be so widely drafted as to bring other genuine SWP machines within the scope of AMLD for the first time and render them as gaming machines. They are meeting with the Treasury to seek clarification on this point. We will continue to monitor developments.

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