



# Betting and Gaming Duties Act 1981

## 1981 CHAPTER 63

### PART II

#### GAMING DUTIES

##### *Gaming licence duty*

<sup>F1</sup>13 .....

**Textual Amendments**

F1 S. 13 repealed (19.3.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. II** Note 2 (with s. 10).

<sup>F2</sup>14 .....

**Textual Amendments**

F2 S. 14 repealed (19.3.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. II** Note 2.

<sup>F3</sup>15 .....

**Textual Amendments**

F3 S. 15 repealed (19.3.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. II** Note 2.

<sup>F4</sup>16 .....

*Status: Point in time view as at 19/03/1997. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Betting and Gaming Duties Act 1981, Part II. (See end of Document for details)*

### Textual Amendments

**F4** S. 16 repealed (19.3.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. II** Note 2.

## Bingo duty

VALID FROM 10/07/2003

### 20A Combined bingo

- (1) A game of bingo is “combined bingo” if—
  - (a) it is multiple bingo within the meaning of section 1 of the Gaming (Bingo) Act 1985, or
  - (b) it is played in more than one place and promoted by more than one person.
- (2) Payments made in respect of entitlement to participate in combined bingo shall be treated for the purposes of section 19(1) as bingo receipts only of the first promoter to whom (or at whose direction) they are paid.
- (3) Where money representing stakes hazarded at combined bingo is paid in an accounting period by one promoter of the bingo (“the first promoter”) to another (“the second promoter”)—
  - (a) the money shall not be treated as a bingo receipt of the second promoter for the purposes of section 19(1),
  - (b) the payment shall be treated as expenditure of the first promoter on bingo winnings for the accounting period for the purposes of section 20(1), and
  - (c) no subsequent payment of all or part of the money shall be treated as expenditure on bingo winnings for the purposes of section 20(1) (whether paid by the second promoter to another person, by the first promoter having received it from the second promoter, or otherwise).
- (4) Subsections (2) and (3) shall apply only where the combined bingo is played entirely in the United Kingdom.

VALID FROM 10/07/2003

### [<sup>F5</sup>20B Carrying losses forward

- (1) Where the calculation of a person’s bingo promotion profits for an accounting period results in a negative amount (“the loss”)—
  - (a) no bingo duty shall be chargeable in respect of that accounting period, and
  - (b) for the purpose of section 17(3), the amount of the person’s expenditure on bingo winnings for the next accounting period shall be increased by the amount of the loss.
- (2) Subsection (1) applies to an accounting period whether or not the loss results wholly or partly from the previous application of that subsection.]

**Status:** Point in time view as at 19/03/1997. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Betting and Gaming Duties Act 1981, Part II. (See end of Document for details)

### Textual Amendments

- F5** Ss. 17-20C substituted (with effect as mentioned in s. 9(10) of the amending Act) for ss. 17-20 by Finance Act 2003 (c. 14), s. 9(1)

VALID FROM 10/07/2003

### 20C Supplementary

- (1) Part 2 of Schedule 3 to this Act (bingo duty: supplementary) shall have effect.
- (2) In sections 17 to 20B above, this section and Schedule 3—
  - “bingo” includes any version of that game, whatever name it is called,
  - “licensed bingo” means bingo played at premises licensed under—
    - (a) the Gaming Act 1968, or
    - (b) Chapter II of Part III of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985,
  - “prize” means anything won at bingo, and
  - “United Kingdom” includes the territorial sea of the United Kingdom.
- (3) For the purposes of those provisions, except in relation to combined bingo, the promoter of a game of bingo is—
  - (a) in the case of licensed bingo, the holder of the licence, and
  - (b) in the case of non-licensed bingo, the person who provides the facilities for the game.
- (4) For the purposes of those provisions in relation to combined bingo a person promotes a game of bingo if he is wholly or partly responsible for organising it or for providing facilities for it.
- (5) In those provisions a reference to entitlement to participate in a game of bingo includes a reference to an opportunity to participate in a game of bingo in respect of which a charge is made (whether by way of a fee for participation, a stake, or both).
- (6) In proceedings relating to bingo duty under the customs and excise Acts an averment in any process that a particular game is a version of bingo shall, until the contrary is proved, be sufficient evidence that it is.

### 17 Bingo duty.

- (1) A duty of excise, to be known as bingo duty, shall be charged on the playing of bingo in [F6the United Kingdom] except in the cases specified in Part I of Schedule 3 to this Act.
- (2) Bingo duty shall be charged in respect of bingo played in a particular week; and the amount of the duty shall be—
  - (a) 10 per cent. of the total of the money taken [F7if any] by or on behalf of the promoter in that week as payment by players for their cards, plus
  - (b) (subject to section 19(1) below) one ninth of the amount (if any) by which that total, after deduction of the 10 per cent. chargeable under paragraph (a) above, is exceeded by the total value of the prizes won in that week’s bingo.

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- (3) For the purposes of this section, a player’s “cards” are the sets of numbers or symbols (in whatever form or lay-out) with which he plays bingo, matching them against calls made by the house; and a player pays for a card when he gives money in exchange for, or for the use of, a particular card, whether it is appropriated to a particular game or can be appropriated by the player to a game of his choice.

#### Textual Amendments

- F6** Words substituted by [Finance Act 1986 \(c. 41, SIF 12:2\)](#), s. 6, [Sch. 4 para. 5](#)  
**F7** Words inserted by [Finance Act 1982 \(c. 39, SIF 12:2\)](#), s. 8, [Sch. 6 Pt. IV para. 4](#)

### 18 Payment and recovery of bingo duty.

- (1) Bingo duty shall be paid by the promoter of the bingo.
- (2) Bingo duty shall be recoverable jointly and severally from all or any of the following persons—
- (a) the promoter;
  - (b) any person who took money as payment by players for cards or paid prizes to players;
  - (c) any person who was responsible for the management of the premises on which bingo was played;
  - (d) where any person within paragraph (a), (b) or (c) above is a company, any director of the company.

### 19 Play in more than one place.

- (1) Where bingo is promoted at one place and, for the purpose of a particular game, it is combined with bingo played at another place and promoted by another person, so that the players at both places share in the chance of winning a prize contributed partly by one promoter and partly by the other, then for the purposes of the charge to bingo duty under section 17(2)(b) above—
- (a) as against the promoter of the bingo at the place where the prize is won there shall be counted so much only of the value of the prize as represents his contribution, and
  - (b) so much of the value of the prize as represents the contribution of the other promoter shall be counted as a prize won at bingo promoted by him;
- and where the prize is provided wholly by or on behalf of one of the promoters concerned, its whole value shall be counted against him under section 17(2)(b), wherever it is won.
- (2) It shall not be lawful for a game of bingo, being bingo which is chargeable with bingo duty and is promoted at a place in [<sup>F8</sup>the United Kingdom], to be combined as mentioned in subsection (1) above with other bingo played elsewhere than in [<sup>F8</sup>the United Kingdom], except where the other bingo is played in . . . <sup>F9</sup> the Isle of Man and is chargeable, under an Act of . . . <sup>F9</sup> Tynwald, with duty corresponding to bingo duty and at a rate not less than that which is chargeable under section 17 above.

**Status:** Point in time view as at 19/03/1997. This version of this part contains provisions that are not valid for this point in time.

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**Textual Amendments**

- F8** Words substituted by Finance Act 1986 (c. 41, SIF 12:2), s. 6, Sch. 4 para. 6(a)
- F9** Words repealed by Finance Act 1986 (c. 41, SIF 12:2), ss. 6, 114(6), Sch. 4 para. 6(b), Sch. 23 Pt. III Notes (a)(b)

**20 Supplementary provisions as to bingo duty.**

- (1) The provisions of Part II of Schedule 3 to this Act (supplementary provisions as to bingo duty) shall have effect.
- (2) In sections 17 to 19 above and in Schedule 3 to this Act—
  - “bingo” includes any version of that game, by whatever name called;
    - .....<sup>F10</sup>
  - “money” includes any token, voucher or other object given by a player in exchange for cards and recognised for the purpose of the exchange to represent a particular sum of money;
  - “prize” means anything won or to be won at bingo, whether money or something else having a value, and “value” and “paid”, in relation to prizes, shall be construed accordingly;
  - “the promoter”, in relation to bingo, means the person to whom the players look for the payment of prizes, and “promote” and “promotion” shall be construed accordingly; and
  - [<sup>F11</sup>“United Kingdom” includes the territorial waters of the United Kingdom;]
  - “week” means a period of seven days beginning with Monday.
- (3) In proceedings relating to bingo duty under the customs and excise Acts an averment in any process that a particular game is a version of bingo shall, until the contrary is proved, be sufficient evidence that it is so.

**Textual Amendments**

- F10** Definition repealed by Finance Act 1986 (c. 41, SIF 12:2), ss. 6, 114(6), Sch. 4 para. 6(b), Sch. 23 Pt. III, Notes (a)(b)
- F11** Definition inserted by Finance Act 1986 (c. 41, SIF 12:2), s. 6, Sch. 4 para. 7

*Gaming machine licence duty*

**[<sup>F12</sup>21 Gaming machine licence duty.**

- (1) Except in the cases specified in Part I of Schedule 4 to this Act, no [<sup>F13</sup>amusement machine]] (other than [<sup>F14</sup>an excepted machine]) shall be provided [<sup>F15</sup>for play] on any premises situated in [<sup>F16</sup>the United Kingdom] unless there is for the time being in force [<sup>F17</sup>a licence granted under this Part of this Act with respect to the premises [<sup>F18</sup>or the machine].
- (2) Such a licence shall be known as [<sup>F19</sup>an amusement machine licence]]<sup>F20</sup>and, if it is granted with respect to a machine, rather than with respect to premises, as a special amusement machine licence.]

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[ <sup>F22</sup>An amusement machine licence] may be granted for a period of a month, or of any <sup>F21</sup>(3) number of months not exceeding twelve, beginning on any day of any month]

<sup>F23</sup>(3AA) [ A special amusement machine licence shall not be granted except where—  
(a) the machine with respect to which it is granted is of a description of machine for which special amusement machine licences are available;  
(b) such conditions as may be prescribed by regulations made by the Commissioners are satisfied in relation to the application for the licence, the machine and the person by whom the application is made; and  
(c) the licence is for twelve months.

(3AB) Special amusement machine licences shall be available for amusement machines of each of the following descriptions—  
(a) machines that are not gaming machines; and  
(b) small prize machines.]

[ For the purposes of this section an excepted machine is—  
<sup>F24</sup>(3A) (a) a two-penny machine, or  
[ a five-penny machine which is a prize machine without being a gaming  
<sup>F25</sup>(b) machine or which (if it is a gaming machine) is a small-prize machine, or  
(c) a thirty-five-penny machine which is not a prize machine.]]

(4) . . . . .]

**Textual Amendments**

- F12** S. 21 substituted by Finance Act 1984 (c. 43, SIF 12:2), s. 7(1)(2) Sch. 3 Pt. I para. 2
- F13** Words in s. 21(1) substituted (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 2(1)(a).
- F14** Words in s. 21(1) substituted (27.7.1993 with application in relation to licences for any period beginning on or after 1.11.1993) by 1993 c. 34, s. 16(2)(9)
- F15** Words in s. 21(1) substituted (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 2(1)(a).
- F16** Words substituted by Finance Act 1985 (c. 54, SIF 12:2), s. 8, Sch. 5 Pt. I para. 1(1)
- F17** Words following “force” in subsection (1) to the end of subsection (2) substituted (1.5.1995) by 1995 c. 4, s. 6, Sch. 3 para. 3(2).
- F18** Words in s. 21(1) inserted (29.4.1996) by 1996 c. 8, s. 12(1).
- F19** Words in s. 21(2) substituted (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 2(1)(b).
- F20** Words in s. 21(2) inserted (29.4.1996) by 1996 c. 8, s. 12(2).
- F21** S. 21(3) substituted (3.5.1994 with effect on or or after 1.5.1994) by 1994 c. 9, s. 6, Sch. 3 para. 1(2)(9).
- F22** Words in s. 21(3) substituted (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 2(1)(c).
- F23** S. 21(3AA)(3AB) inserted (29.4.1996) by 1996 c. 8, s. 12(3).
- F24** S. 21(3A) inserted (27.7.1993 with application in relation to licences for any period beginning on or after 1.11.1993) by 1993 c. 34, s. 16(3)(9)
- F25** S. 21(3A)(b)(c) substituted for s. 21(3A)(b) (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 2(2).

**Modifications etc. (not altering text)**

- C1** S. 21(3) extended (1.5.1994) by 1994 c. 9, s. 6, Sch. 3 para. 5(5)(6).  
S. 21(3) extended (3.5.1994 with effect (1.4.1994) by 1994 c. 9, s. 6, Sch. 3 para. 4(3)(4).

<sup>F26</sup>21A. . . . .

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**Changes to legislation:** There are currently no known outstanding effects for the Betting and Gaming Duties Act 1981, Part II. (See end of Document for details)

**Textual Amendments**

**F26** S. 21A repealed (1.5.1995) by 1994 c. 9, s. 6, Sch. 3 para. 3(3)(11), **Sch. 26 Pt. II** Note.

**22 Gaming machine licence duty.**

(1) A duty of excise shall be charged on [<sup>F27</sup>amusement machine] licences and the duty on a licence shall be determined [<sup>F28</sup>in accordance with section 23 below]

[<sup>F29</sup>(2) For the purposes of this Act [<sup>F30</sup>an amusement machine is a small-prize machine if it is a prize machine and] the value or aggregate value of the benefits in money or money’s worth, which any player who is successful in a single game played by means of the machine may receive, cannot exceed [<sup>F31</sup>£10]

(3) The Commissioners may by order substitute for the sum for the time being mentioned in subsection (2) above such higher sum as may be specified in the order, with effect from a date so specified.]

<sup>F32</sup>(5) .....

(6) ..... <sup>F33</sup>

**Textual Amendments**

**F27** Words in s. 22(1) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 3(1)**.

**F28** Words in s. 22(1) substituted (27.7.1993 with application in relation to licences for any period beginning on or after 1.11.1993) by 1993 c. 34, s. 16(4)(a)(9)

**F29** S. 22(2)(3) substituted for s. 22(2) to (4) by Finance Act 1985 (c. 54, SIF 12:2), s. 8, **Sch. 5 Pt. I para. 3(2)**

**F30** Words in s. 22(2) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 3(2)**.

**F31** Words in s. 22(2) substituted (1.7.1996) by virtue of S.I. 1996/1422, **art. 3**.

**F32** S. 22(5) repealed (3.5.1994 with effect as mentioned in Sch. 3 para. 9 of the amending act) by 1994 c. 9, s. 6, Sch. 3 para. 1(3)(9), **Sch. 26 Pt. II** Note.

**F33** S. 22(6) repealed by Finance Act 1982 (c. 39, SIF 12:2), s. 157, **Sch. 22 Pt. III** Note

**[<sup>F34</sup>23 Amount of duty.**

(1) The amount of duty payable on [<sup>F35</sup>an amusement machine licence]] shall be—

- (a) the appropriate amount for the machine which it authorises, or
- (b) if it authorises two or more machines, the aggregate of the appropriate amounts for each of those machines.

(2) The appropriate amount for each machine shall be determined in accordance with the following Table by reference to—

- (a) the period for which the licence is granted, and
- (b) whether the machine falls within column 2 [<sup>F36</sup>, column 3 or column 4] of the Table,

and references in this Part to a rate of [<sup>F37</sup>amusement] machine licence duty are references to the rate in column 2 [<sup>F38</sup>, the rate in column 3 or the rate in column 4]

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[<sup>F39</sup> TABLE

(1) Period (in months) for which licence granted	(2) Machines that are not gaming machines	(3) Gaming machines that are small-prize machines or are five-penny machines without being small-prize machines	(4) Other machines
	£	£	£
1	30	60	150
2	50	105	275
3	75	155	400
4	95	205	520
5	120	250	645
6	140	295	755
7	160	340	880
8	185	390	1,005
9	205	435	1,115
10	225	480	1,235
11	240	510	1,305
12	250	535	1,375]

#### Textual Amendments

- F34** S. 23 substituted (with effect on 1.5.1994) by 1994 c. 9, s. 6, **Sch. 3 para. 1(4)(9)**.
- F35** Words in s. 23(1) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 4(1)**.
- F36** Words in s. 23(2)(b) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 4(2)(a)**.
- F37** Words in s. 23(2) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 4(2)(b)**.
- F38** Words in s. 23(2) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 4(2)(b)**.
- F39** Table in s. 23 substituted (with effect on 1.11.1995 in relation only to the provision of a machine at a time on or after 1.11.1995 and to licences for periods beginning on or after that date and the duty on such licences) by virtue of 1995 c. 4, s. 14, **Sch. 3 para. 4(3)**.

#### Modifications etc. (not altering text)

- C2** S. 23 extended (with effect in relation to gaming machine licences granted for any period beginning on or after 1.4.1994) by 1994 c. 9, s. 6, **Sch. 3 para. 4(3)(4)**.
- S. 23 extended (1.5.1994) by 1994 c. 9, s. 6, **Sch. 3 para. 5(5)(6)**.

## 24 Restrictions on provision of gaming machines.

(1) ..... <sup>F40</sup>



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- <sup>F41</sup>(2) . . . . .
- (3) [<sup>F42</sup>Amusement machines] chargeable at a particular rate shall not be provided on any <sup>F43</sup>. . . premises in excess of the number authorised by the licence [<sup>F44</sup>or licences] authorising the provision of [<sup>F45</sup>amusement machines] chargeable at that rate <sup>F46</sup>. . .
- (4) Where a licence which authorises the provision of [<sup>F45</sup>amusement machines] chargeable at one rate only is in force in respect of any <sup>F43</sup>. . . premises, [<sup>F45</sup>amusement machines] chargeable at any other rate shall not be provided [<sup>F47</sup>for play] on those premises unless another licence authorising the provision of [<sup>F45</sup>amusement machines] chargeable at that other rate is also in force in respect of the premises [<sup>F48</sup>or there are special licences in force with respect to those machines][<sup>F49</sup>or the machines].
- (5) If any [<sup>F50</sup>amusement machine] is provided for gaming on any premises in contravention of [<sup>F51</sup>section 21(1) above or] this section, [<sup>F52</sup>the provision of the machine shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, for the purposes of the application of that section to the conduct attracting the penalty, the provision of the machine shall be treated as the conduct of each of the persons who, at the time when the [<sup>F50</sup>amusement machine] is provided]—
- (a) is the owner, lessee or occupier of the premises, or
  - (b) is for the time being responsible to the owner, lessee or occupier for the management of the premises, or
  - (c) is a person responsible for issuing or exchanging coins or tokens for use in playing any gaming machine on the premises, or otherwise for controlling the use of any such machine, or
  - (d) is for the time being responsible for controlling the admission of persons to the premises or for providing persons resorting thereto with any goods or services, or
  - (e) is the owner or hirer of the machine, or
  - (f) is a party to any contract under which [<sup>F53</sup>an][<sup>F50</sup>amusement machine] may, or is required to, be on the premises at that time,
- <sup>F54</sup>. . .
- (6) If any [<sup>F50</sup>amusement machine] is provided [<sup>F47</sup>for play] on any premises in contravention of [<sup>F51</sup>section 21(1) above or] this section and any such person as is mentioned in subsection (5) above knowingly or recklessly brought about the contravention or took any steps with a view to procuring it he shall be guilty of an offence and liable—
- <sup>F55</sup>(a) on summary conviction to a penalty—
    - (i) of the prescribed sum, <sup>F56</sup>. . . , or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment;]
  - (b) on conviction on indictment to a penalty of any amount or to imprisonment for a term not exceeding two years or to both.

**Textual Amendments**

- F40** S. 24(1) repealed by Finance Act 1984 (c. 43, SIF 12:2), ss. 7(1)(2), 128(6), Sch. 3 Pt. I para. 6(a), Sch. 23 Pt. II Note
- F41** S. 24(2) repealed (3.5.1994 with effect as mentioned in Sch. 3 para. 1(9)) by 1994 c. 9, s. 6, Sch. 3 para. 1(5)(a)(9).
- F42** Words in s. 24 substituted for “Gaming machines” (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 5(a).

*Status: Point in time view as at 19/03/1997. This version of this part contains provisions that are not valid for this point in time.*

**Changes to legislation:** There are currently no known outstanding effects for the Betting and Gaming Duties Act 1981, Part II. (See end of Document for details)

- F43** Word in s. 24(3)(4) repealed (3.5.1994 with effect as mentioned in Sch. 3 para. 1(9)) by 1994 c. 9, s. 6, **Sch. 3 para. 1(5)(b)(9)**.
- F44** Words inserted by **Finance Act 1984** (c. 43, SIF 12:2), s. 7(1)(2), **Sch. 3 para. 6(c)**
- F45** Words in s. 24 substituted for “gaming machines” (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 5(a)**.
- F46** Words in s. 24(3) repealed (1.5.1995) by virtue of 1994 c. 9, s. 6, Sch. 3 para. 3(4)(a)(11), **Sch. 26 Pt. II** Note.
- F47** Words in s. 24 substituted for “for gaming” (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 5(c)**.
- F48** Words added by **Finance Act 1984** (c. 43, SIF 12:2), s. 7(1)(2), **Sch. 3 para. 6(d)**
- F49** Words in s. 24(4) inserted (29.4.1996) by 1996 c. 8, s. 12(4).
- F50** Words in s. 24 substituted for “gaming machine” (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 5(a)**.
- F51** Words inserted by **Finance Act 1984** (c. 43, SIF 12:2), s. 7(1)(2), **Sch. 3 para. 6(e)**
- F52** Words in s. 24(5) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. V para. 61(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3**.
- F53** Word in s. 24(5)(f) substituted for “an” (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 5(b)**.
- F54** Words after s. 24(5)(f) repealed (1.1.1995) by 1994 c. 9, ss. 9, 258, Sch. 4 Pt. V para. 61(b), **Sch. 26 Pt. III** Note (with s. 19(3)); S.I. 1994/2679, **art. 3**.
- F55** S. 24(6)(a) substituted by **Finance Act 1982** (c. 39, SIF 12:2), s. 8, **Sch. 6 Pt. V para. 12**
- F56** Words in s. 24(6)(a) from “or” to “greater” repealed (3.5.1994 with effect as mentioned in Sch. 3 para. 1(9)) by 1994 c. 9, s. 6, **Sch. 3 para. 1(5)(c)(9)**.

VALID FROM 28/07/2000

**[<sup>F57</sup>24A Unlicensed machines: duty chargeable.**

Schedule 4A to this Act (which provides for the recovery of amusement machine licence duty in relation to unlawfully unlicensed machines) shall have effect.]

**Textual Amendments**

- F57** S. 24A inserted (28.7.2000 with effect as mentioned in **Sch. 2 para. 7(1)** of the amending Act) by 2000 c. 17, s. 17, **Sch. 2** p26.ara. 9

**25 Meaning of “gaming machine”.**

- [<sup>F58</sup>(1)** A machine is an amusement machine for the purposes of this Act if—
- (a) the machine is constructed or adapted for the playing of any game (whether a game of chance, a game of skill or a game of chance and skill combined);
  - (b) the game is one played by means of the machine (whether automatically or by the operation of the machine by the player or players);
  - (c) a player pays to play the game (except where he has an opportunity to play without payment as a result of having previously played successfully) either by inserting a coin or token into the machine or in some other way;
  - (d) the machine automatically—
    - (i) applies some or all of the rules of the game or displays or records scores in the game; and
    - (ii) determines when a player who has paid to play a game by means of the machine can no longer play without paying again;
- and

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(e) the machine is a gaming machine, a video machine or a pinball machine.

(1A) A machine constructed or adapted for the playing of a game is a gaming machine for the purposes of this Act if—

- (a) it is a prize machine;
- (b) the game which is played by means of the machine is a game of chance, a game of chance and skill combined or a pretended game of chance or of chance and skill combined; and
- (c) the outcome of the game is determined by the chances inherent in the action of the machine, whether or not provision is made for manipulation of the machine by a player;

and for the purposes of this subsection a game in which the elements of chance can be overcome by skill shall be treated as a game of chance and skill combined if there is an element of chance in the game that cannot be overcome except by superlative skill.

(1B) A machine constructed or adapted for the playing of a game is a video machine for the purposes of this Act if—

- (a) a micro-processor is used to control some or all of the machine's functions; and
- (b) the playing of the game involves information or images being communicated or displayed to the player or players by means of any description of screen, other than one consisting only in a blank surface onto which light is projected.

(1C) For the purposes of this Act an amusement machine is a prize machine unless it is constructed or adapted so that a person playing it once and successfully either receives nothing or receives only—

- (a) an opportunity, afforded by the automatic action of the machine, to play again (once or more often) without paying, or
- (b) a prize, determined by the automatic action of the machine and consisting in either—
  - (i) money of an amount not exceeding the sum payable to play the machine once, or
  - (ii) a token which is, or two or more tokens which in the aggregate are, exchangeable for money of an amount not exceeding that sum.]

[<sup>F59</sup>(4) Subject to subsection (5) below, for the purposes of determining whether a machine is [<sup>F60</sup>a machine of any description]] it is immaterial whether it is capable of being played by only one person at a time, or is capable of being played by more than one person.

[<sup>F61</sup>(5) For the purposes of sections 21 to 24 above a machine (the actual machine) in relation to which the number determined in accordance with subsection (5A) below is more than one shall be treated (instead of as one machine) as if it were a number of machines (accountable machines) equal to the number so determined.

(5A) That number is—

- (a) except where paragraph (b) below applies, the number of individual playing positions provided on the machine for persons to play simultaneously (whether or not while participating in the same game); and
- (b) where—
  - (i) that machine is a video machine but not a gaming machine, and
  - (ii) the number of such playing positions is more than the number of different screens used for the communication or display of

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information or images to any person or persons playing a game by means of the machine,

the number of such screens.

- (6) Subsection (5) above does not apply in the case of any machine which is an excepted machine for the purposes of section 21 above or in the case of a pinball machine.
- (7) Any question whether the accountable machines are, or are not, machines falling within any of the following descriptions, that is to say—
- (a) gaming machines,
  - (b) prize machines,
  - (c) small-prize machines, or
  - (d) five-penny machines,

shall be determined according to whether or not the actual machine is a machine of that description, with the accountable machines being taken to be machines of the same description as the actual machine.]

#### Textual Amendments

- F58** S. 25(1)-(1C) substituted for s. 25(1)-(3) (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 6(1)
- F59** S. 25(4)-(9) substituted (27.7.1993 with application in relation to licences for any period beginning on or after 1.11.1993) for s. 25(4) by 1993 c. 34, s. 16(6)(9)
- F60** Words in s. 25(4) substituted (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 6(2).
- F61** S. 25(5)-(7) substituted for s. 25(5)-(9) (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 6(3).

#### 25A Power to modify definition of “amusement machine”.

- (1) The Treasury may by order modify the provisions of section 25 above—
- (a) by adding to the machines for the time being specified in subsection (1)(e) of that section any description of machines which it appears to them, having regard to the use to which the machines are put, to be appropriate for the protection of the revenue so to add to those machines; or
  - (b) by deleting any description of machines for the time being so specified.
- (2) An order under this section may make such incidental, consequential or transitional provision as the Treasury think fit, including provision modifying section 21 or section 25(5A) above for the purpose of—
- (a) specifying the circumstances (if any) in which a machine added to section 25(1)(e) above is to be an excepted machine for the purposes of section 21 above; or
  - (b) determining the number which, in the case of a machine so added, is to be taken into account for the purposes of section 25(5) above.

#### 26 Supplementary provisions as to gaming machine licence duty.

- (1) The provisions of Part II of Schedule 4 to this Act (supplementary provisions as to <sup>F62</sup>amusement machine licence duty) shall have effect.
- (2) In sections 21 to 25 above and in Schedule 4 to this Act—  
“coin” means coin lawfully current in the United Kingdom;

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[<sup>F63</sup>“United Kingdom” includes the territorial waters of the United Kingdom;

[<sup>F64</sup>“video machine” has the meaning given by section 25(1B) above;

“prize machine” has the meaning given by section 25(1C) above;]

“small-prize machine” has the meaning given by section 22(2) above.]

[<sup>F65</sup>“two-penny machine” means [<sup>F66</sup>an amusement machine] which can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 2p]

[<sup>F67</sup>“five-penny machine” means [<sup>F66</sup>an amusement machine] which can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 5p; and]

[<sup>F68</sup>“thirty-five-penny machine” means an amusement machine which can only be played by the insertion into the machine of coins of an aggregate denomination not exceeding 35p;]

“premises” includes any place whatsoever and any means of transport.

[<sup>F69</sup>(2A) References in sections 21 to 25 above and in this section and Schedule 4 to this Act to a game, in relation to any machine, include references to a game in the nature of a quiz or puzzle and to a game which is played solely by way of a pastime or against the machine, as well as one played wholly or partly against one or more contemporaneous or previous players.]

(3) A machine is provided [<sup>F70</sup>for play] on any premises if it is made available on those premises in such a way that persons resorting to them can play it; and [<sup>F71</sup>subject to subsection (3A) below] where on any premises one or more [<sup>F72</sup>amusement machines] are so made available, any such machine anywhere on the premises shall be treated as provided [<sup>F70</sup>for play] on those premises, notwithstanding that it is not so made available or is not in a state in which it can be played.

[<sup>F73</sup>(3A) The Commissioners may by regulations make provision for the purpose of enabling spare [<sup>F72</sup>amusement machines] to be kept on premises for use in the case of the breakdown of other [<sup>F72</sup>amusement machines] on those premises: and such regulations may provide that, in such circumstances and subject to such conditions as may be specified in the regulations, [<sup>F66</sup>an amusement machine] on any premises which is not made available as mentioned in subsection (3) above, or is not in a state in which it can be played, shall not be treated by virtue of that subsection as provided [<sup>F70</sup>for play] on those premises.]

[<sup>F74</sup>(4) Where the game playable by means of [<sup>F66</sup>an amusement machine] can be played more than once for the insertion of a coin or coins of a denomination, or aggregate denomination, exceeding any sum in pence mentioned in <sup>F75</sup>. . . subsection (2) above, the machine is to be treated for the purposes of [<sup>F76</sup>that provision] as if it can only be played by the insertion into it of a coin of a denomination not exceeding that sum if, in effect, the amount payable to play the game once does not exceed that sum or, where the machine provides differing numbers of games in differing circumstances, cannot exceed that sum.]

#### Textual Amendments

**F62** Words in s. 26(1) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(1)(a)**.

**F63** Entries substituted for entry relating to “Great Britain” by Finance Act 1985 (c. 54, SIF 12:2), s. 8, **Sch. 5 Pt. 1 para. 6**

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- F64** Definitions of “video machine” and “prize machine” inserted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(2)(a)**.
- F65** Definition substituted for definition “penny machine” by Finance Act 1982 (c. 39, SIF 12:2), s. 8, **Sch. 6 Pt. V para. 14(1)**.
- F66** Words in s. 26 substituted for “a gaming machine” (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(1)(b)**.
- F67** Definition in s. 26(2) inserted (27.7.1993 with application in relation to licences for any period beginning on or after 1.11.1993) by 1993 c. 34, s. 16(7)(9).
- F68** Definition of “thirty-five penny machine” inserted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(2)(b)**.
- F69** S. 26(2A) inserted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(3)**.
- F70** Words in s. 26 substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(1)(c)**.
- F71** Words inserted by Finance Act 1987 (c. 16, SIF 12:2), s. 5(2).
- F72** Words in s. 26 substituted for “gaming machines” (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 8(1)(b)**.
- F73** S. 26(3A) inserted by Finance Act 1987 (c. 16, SIF 12:2), s. 5(3).
- F74** S. 26(4) inserted by Finance Act 1982 (c. 49, SIF 12:2), s. 8, **Sch. 6 Pt. V para. 14(2)**.
- F75** Words in s. 26(4) repealed (3.5.1994 with effect as mentioned in Sch. 3 para. 1(9) of amending act) by 1994 c. 9, ss. 6, 258, **Sch. 3 para. 1(6)(a)(9)**, **Sch. 26 Pt. II** Note.
- F76** Words in s. 26(4) substituted (3.5.1994 with effect as mentioned in Sch. 3 para. 1(9) of amending act) by 1994 c. 9, s. 6, **Sch. 3 para. 1(6)(b)(9)**.

VALID FROM 10/07/2003

<sup>F77</sup> **26A Amounts in currencies other than sterling**

- (1) Any reference in this Part of this Act to a amount in sterling, in the context of—
  - (a) the cost of playing a game, or
  - (b) the amount of the prize for a game,
 includes a reference to the equivalent amount in another currency.
- (2) The equivalent amount in another currency, in relation to any day, shall be determined by reference to the London closing exchange rate for the previous day.
- (3) For the purposes of determining what duty is payable on an amusement machine licence in a case where this section applies, the equivalent in another currency of an amount in sterling shall be taken to be its equivalent on the day on which the application for the licence is received by the Commissioners, or the due date in the case of a default licence.
- (4) In subsection (3) above—
 

“default licence” means a licence granted under paragraph 3(1) of Schedule 4A to this Act;

“due date” has the meaning given by paragraph 2(4) of that Schedule.

**Textual Amendments**

- F77** S. 26A renumbered (with effect as mentioned in s. 8(2) of the amending Act) as s. 26N by Finance Act 2007 (c. 11), s. 8, **Sch. 1 para. 1**; S.I. 2007/2172, **art. 2**

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VALID FROM 19/07/2007

## <sup>F78</sup> Remote gaming duty

### Textual Amendments

**F78** Ss. 26A-26M and cross-heading inserted (with effect as mentioned in s. 8(2) of the amending Act) by Finance Act 2007 (c. 11), s. 8, **Sch. 1 para. 2**; S.I. 2007/2172, **art. 2**

### **26B The duty**

A duty of excise to be known as remote gaming duty shall be charged on the provision of facilities for remote gaming if—

- (a) the facilities are provided in reliance on a remote operating licence, or
- (b) at least one piece of remote gambling equipment used in the provision of the facilities is situated in the United Kingdom (whether or not the facilities are provided for use wholly or partly in the United Kingdom).

### **26C The rate**

- (1) Remote gaming duty is chargeable at the rate of 15% of P's remote gaming profits for an accounting period.
- (2) P's remote gaming profits for an accounting period are—
  - (a) the amount of P's remote gaming receipts for the period (calculated in accordance with section 26E), minus
  - (b) the amount of P's expenditure for the period on remote gaming winnings (calculated in accordance with section 26F).

### **26D Accounting periods**

- (1) The following are accounting periods for the purposes of remote gaming duty—
  - (a) the period of three months beginning with 1st January,
  - (b) the period of three months beginning with 1st April,
  - (c) the period of three months beginning with 1st July, and
  - (d) the period of three months beginning with 1st October.
- (2) The Commissioners may agree with P for specified periods to be treated as accounting periods, instead of those described in subsection (1), for purposes of remote gaming duty relating to P.
- (3) The Commissioners may by direction make transitional arrangements for the periods to be treated as accounting periods where—
  - (a) P becomes registered, or ceases to be registered, under section 26J, or
  - (b) an agreement under subsection (2) begins or ends.



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## **26E Remote gaming receipts**

- (1) The amount of P's remote gaming receipts for an accounting period is the aggregate of—
  - (a) amounts falling due to P in that period in respect of entitlement to use facilities for remote gaming provided by P, and
  - (b) amounts staked, or falling due to be paid, in that period by a user of facilities for remote gaming provided by P, if or in so far as responsibility for paying any amount won by the user falls on P (or a person with whom P is connected or has made arrangements).
- (2) Amounts in respect of VAT shall be ignored for the purposes of subsection (1).
- (3) The Treasury may by order provide that where a person who uses facilities (U) relies on an offer which waives payment or permits payment of less than the amount which would have been required to be paid without the offer, U is to be treated for the purposes of this section as having paid that amount.

## **26F Remote gaming winnings**

- (1) The amount of P's expenditure on remote gaming winnings for an accounting period is the aggregate of the value of prizes provided by P in that period which have been won (at any time) by persons using facilities for remote gaming provided by P.
- (2) Prizes provided by P to one user on behalf of another are not to be treated as prizes provided by P.
- (3) A reference to providing a prize to a user (U) includes a reference to crediting money in respect of gaming winnings by U to an account if U is notified that—
  - (a) the money is being held in the account, and
  - (b) U is entitled to withdraw it on demand.
- (4) The return of a stake is to be treated as the provision of a prize.
- (5) Where P participates in arrangements under which a number of persons who provide facilities for remote gaming contribute towards a fund which is wholly used to provide prizes in connection with the use of those facilities (sometimes described as arrangements for “linked progressive jackpot games”)—
  - (a) the making by P of a contribution which relates to the provision by P of facilities for remote gaming shall be treated as the provision of a prize, and
  - (b) the award of a prize from the fund shall not be treated as the provision of a prize by P.
- (6) Where P credits the account of a user of facilities provided by P (otherwise than as described in subsection (3)), the credit shall be treated as the provision of a prize; but the Commissioners may direct that this subsection shall not apply in a specified case or class of cases.
- (7) Subsections (2) to (6) of section 20 shall apply (with any necessary modifications) for the purpose of remote gaming duty as for the purpose of bingo duty.



## **26G Losses**

Where the calculation of P's remote gaming profits for an accounting period produces a negative amount, it may be carried forward in reduction of the profits of one or more later accounting periods.

## **26H Exemptions**

- (1) Remote gaming duty shall not be charged in respect of the provision of facilities for remote gaming if and in so far as—
  - (a) the provision is charged with another gambling tax, or
  - (b) the use of the facilities is charged with another gambling tax.
- (2) Remote gaming duty shall not be charged in respect of the provision of facilities for remote gaming if and in so far as—
  - (a) the provision would be charged with another gambling tax but for an express exception, or
  - (b) the use of the facilities would be charged with another gambling tax but for an express exception.
- (3) In this section “gambling tax” means—
  - (a) amusement machine licence duty,
  - (b) bingo duty,
  - (c) gaming duty,
  - (d) general betting duty,
  - (e) lottery duty, and
  - (f) pool betting duty.
- (4) The Treasury may by order—
  - (a) confer an exemption from remote gaming duty, or
  - (b) remove or vary (whether or not by textual amendment) an exemption under this section.
- (5) In calculating P's remote gaming profits for an accounting period, no account shall be taken of amounts or prizes if, or in so far as, they relate to the provision of facilities to which an exemption applies under or by virtue of this section.

## **26I Liability to pay**

- (1) P is liable for any remote gaming duty charged on P's remote gaming profits for an accounting period.
- (2) If P is a body corporate, P and P's directors are jointly and severally liable for any remote gaming duty charged on P's remote gaming profits for an accounting period.
- (3) The Commissioners may make regulations about payment of remote gaming duty; and the regulations may, in particular, make provision about—
  - (a) timing;
  - (b) instalments;
  - (c) methods of payment;
  - (d) when payment is to be treated as made;
  - (e) the process and effect of assessments by the Commissioners of amounts due.

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- (4) Subject to regulations under subsection (3), section 12 of the Finance Act 1994 (assessment) shall apply in relation to liability to pay remote gaming duty.

## **26J Registration**

- (1) The Commissioners shall maintain a register of persons who provide facilities for remote gaming in respect of which remote gaming duty may be chargeable.
- (2) A person may not provide facilities for remote gaming in respect of which remote gaming duty may be chargeable without being registered.
- (3) The Commissioners may make regulations about registration; in particular, the regulations may include provision (which may include provision conferring a discretion on the Commissioners) about—
- (a) the procedure for applying for registration;
  - (b) the timing of applications;
  - (c) the information to be provided;
  - (d) notification of changes;
  - (e) de-registration;
  - (f) re-registration after a person ceases to be registered.
- (4) The regulations may require a registered person to give notice to the Commissioners before applying for a remote operating licence.
- (5) The regulations may permit the Commissioners to make registration, or continued registration, of a foreign person conditional; and the regulations may, in particular, permit the Commissioners to require—
- (a) the provision of security for payment of remote gaming duty;
  - (b) the appointment of a United Kingdom representative with responsibility for discharging liability to remote gaming duty.
- (6) In subsection (5) “foreign person” means a person who—
- (a) in the case of an individual, is not usually resident in the United Kingdom,
  - (b) in the case of a body corporate, does not have an established place of business in the United Kingdom, and
  - (c) in any other case, does not include an individual who is usually resident in the United Kingdom.
- (7) The regulations may include provision for the registration of groups of persons; and may provide for the modification of the provisions of this Part about remote gaming duty in their application to groups.
- (8) The regulations—
- (a) may make provision which applies generally or only for specified purposes, and
  - (b) may make different provision for different purposes.

## **26K Returns**

- (1) The Commissioners may make regulations requiring persons who provide facilities for remote gaming in respect of which remote gaming duty may be chargeable to make returns to the Commissioners in respect of their activities.

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- (2) The regulations may, in particular, make provision about—
  - (a) liability to make a return;
  - (b) timing;
  - (c) form;
  - (d) content;
  - (e) method of making;
  - (f) declarations;
  - (g) authentication;
  - (h) when a return is to be treated as made.
- (3) The regulations—
  - (a) may make provision which applies generally or only for specified purposes, and
  - (b) may make different provision for different purposes.

## **26L Enforcement**

- (1) Contravention of a provision made by or by virtue of sections 26I to 26K—
  - (a) is conduct to which section 9 of the Finance Act 1994 applies (penalties), and
  - (b) attracts daily penalties under that section.
- (2) A person who is knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of remote gaming duty commits an offence.
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to—
  - (a) a penalty of—
    - (i) the statutory maximum, or
    - (ii) if greater, three times the duty which is unpaid or the payment of which is sought to be avoided,
  - (b) imprisonment for a term not exceeding six months, or
  - (c) both.
- (4) A person guilty of an offence under subsection (2) shall be liable on conviction on indictment to—
  - (a) a penalty of any amount,
  - (b) imprisonment for a term not exceeding seven years, or
  - (c) both.

## **26M Review and appeal**

- (1) Sections 14 to 16 of the Finance Act 1994 (review and appeal) shall apply in relation to liability to pay remote gaming duty.
- (2) Sections 14 to 16 of that Act shall also apply to the decisions listed in subsection (3) below.
- (3) Those decisions are—
  - (a) a decision to refuse a request for an agreement under section 26D(2),
  - (b) a decision to give a direction under section 26D(3),

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- (c) a decision not to give a direction under section 26D(3),
  - (d) a decision to direct that section 26F(6) shall not apply in a specified case,
  - (e) a decision under regulations by virtue of section 26J(3), and
  - (f) a decision about security by virtue of section 26J(5)(a).
- (4) A decision of a kind specified in subsection (3) shall be treated as an ancillary matter for the purposes of sections 14 to 16 of the Finance Act 1994.]

VALID FROM 19/07/2007

[<sup>F79</sup>General]

#### Textual Amendments

**F79** Cross-heading preceding s. 26N inserted (with effect as mentioned in s. 8(2) of the amending Act) by Finance Act 2007 (c. 11), s. 8, **Sch. 1 para. 3**; S.I. 2007/2172, **art. 2**

#### [<sup>F80</sup>26N] Amounts in currencies other than sterling

- (1) Any reference in this Part of this Act to a amount in sterling, in the context of—
- (a) the cost of playing a game, or
  - (b) the amount of the prize for a game,
- includes a reference to the equivalent amount in another currency.
- (2) The equivalent amount in another currency, in relation to any day, shall be determined by reference to the London closing exchange rate for the previous day.
- (3) For the purposes of determining what duty is payable on an amusement machine licence in a case where this section applies, the equivalent in another currency of an amount in sterling shall be taken to be its equivalent on the day on which the application for the licence is received by the Commissioners, or the due date in the case of a default licence.
- (4) In subsection (3) above—
- “default licence” means a licence granted under paragraph 3(1) of Schedule 4A to this Act;
  - “due date” has the meaning given by paragraph 2(4) of that Schedule.

#### Textual Amendments

**F80** S. 26A inserted (10.7.2003) by Finance Act 2003 (c. 14), s. 11(2) (with s. 11(3))

**Status:**

Point in time view as at 19/03/1997. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Betting and Gaming Duties Act 1981, Part II.