



# Betting and Gaming Duties Act 1981

## 1981 CHAPTER 63

### PART III

#### GENERAL

#### **27 Offences by bodies corporate.**

—Where an offence under section 15 or 24 above, paragraph 13(1) or (3) or 14(1) of Schedule 1, paragraph 7 of Schedule 2, paragraph 16 of Schedule 3 or paragraph 16 of Schedule 4 to this Act has been committed by a body corporate, every person who at the date of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves—

- (a) that the offence was committed without his consent or connivance, and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

#### **28 Recovery of duty by distress in England and Wales.**

- (1) If a person, on written demand by the proper officer, refuses or neglects to pay any amount recoverable from him by way of general betting duty or bingo duty or by virtue of section 12(1) or 14 above or of Schedule 2 to this Act, the amount recoverable may be levied by distress on his goods and chattels, and the proper officer may for that purpose by warrant signed by him authorise any person to distrain accordingly and to sell anything so distrained by public auction after giving six days' notice of the sale.
- (2) Where an amount recoverable as mentioned in subsection (1) above is determined by reference to the duty on a gaming licence in respect of premises on which gaming is carried on as an activity of a club or wholly or in part by reference to the duty on the playing of bingo on any premises, the goods and chattels on which distress may be levied under that subsection shall include any goods and chattels used for the purposes of the club or, as the case may be, the bingo and found on those premises; but distress

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shall not be levied on any goods or chattels by virtue of this subsection unless a copy of the demand for the amount recoverable has been served—

- (a) in the case of an amount recoverable by reference to the duty on a gaming licence, on the secretary of the club (or person performing the functions of secretary) by leaving it or sending it by post addressed to him at an address to which communications about the affairs of the club are ordinarily sent, or
  - (b) in the case of an amount recoverable by reference to bingo duty, on the bingo promoter or the person having the management of those premises by sending it by post addressed to him at the premises or at an address at which he carries on any business.
- (3) The proceeds of sale of anything distrained under this section shall be applied in or towards payment of the costs and expenses of the distress and sale and the payment of the amount recoverable and the surplus, if any, shall be paid—
- (a) in the case of an amount recoverable by reference to the duty on a gaming licence where the distress was levied on any goods or chattels by virtue of subsection (2) above, to the secretary (or person performing the functions of secretary) of the club, and
  - (b) in any other case to the person on whom the distress was levied.
- (4) Where under this section distress is levied for any duty in accordance with an estimate made under paragraph 11 of Schedule 1, paragraph 5 of Schedule 2 or paragraph 14 of Schedule 3 to this Act and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the distress or anything done under this section in connection with it but the proceeds of sale shall be applied under subsection (3) above in accordance with the amount properly due and not in accordance with the amount estimated.

[<sup>F1</sup>(5) This section extends to England and Wales and Northern Ireland only.]

#### Textual Amendments

**F1** S. 28(5) substituted by Finance Act 1986 (c. 41, SIF 12:2), s. 6, Sch. 4 Pt. I para. 8

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

**C1** S. 28 applied (1.1.1995) by 1994 c. 9, s. 18(4)(8) (with s. 19(3)); S.I. 1994/2679, art. 3.

## 29 Recovery of duty by poinding in Scotland.

[<sup>F2</sup>(1) The sheriff, on an application by the proper officer accompanied by a certificate by him that a person, on written demand by the proper officer, has refused or neglected to pay any amount recoverable from him by way of general betting duty or bingo duty or by virtue of section 12(1) or 14 above or of Schedule 2 to this Act, may grant a warrant authorising a sheriff officer—

- (a) to take into possession, by force if necessary, any of that person's corporeal moveables which would not be exempted from poinding and for that purpose to open shut and lockfast places; and
- (b) to sell anything so taken into possession by public auction after giving 6 days' notice of the sale.]

(2) Where an amount recoverable as mentioned in subsection (1) above is determined by reference to the duty on a gaming licence in respect of premises on which gaming

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is carried on as an activity of a club or wholly or in part by reference to the duty on the playing of bingo on any premises, the moveables which may be [<sup>F3</sup>taken into possession] under that subsection shall include any corporeal moveables used for the purposes of the club or, as the case may be, the bingo and found on those premises; but no moveables shall be [<sup>F3</sup>taken into possession] by virtue of this subsection unless a copy of the demand for the amount recoverable has been served—

- (a) in the case of an amount recoverable by reference to the duty on a gaming licence, on the secretary of the club (or person performing the functions of secretary) by leaving it or sending it by post addressed to him at an address to which communications about the affairs of the club are ordinarily sent, or
  - (b) in the case of an amount recoverable by reference to bingo duty, on the bingo promoter or the person having the management of those premises by sending it by post addressed to him at the premises, or at an address at which he carries on any business.
- (3) The proceeds of sale of anything sold under this section shall be applied in or towards payment of the costs and expenses [<sup>F4</sup>incurred in taking into possession the corporeal moveables and their] sale and the payment of the amount recoverable and the surplus, if any, shall be paid—
- (a) in the case of an amount recoverable by reference to the duty of a gaming licence where any moveables were [<sup>F5</sup>taken into possession] by virtue of subsection (2) above, the secretary (or person performing the functions of secretary) of the club, and
  - (b) in any other case to the person in whose hands the moveables were [<sup>F6</sup>when they were taken into possession by the sheriff officer].
- (4) Where under this section corporeal moveables are [<sup>F7</sup>taken into possession] for any duty in accordance with an estimate made under paragraph 11 of Schedule 1, paragraph 5 of Schedule 2 or paragraph 14 of Schedule 3 to this Act and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the [<sup>F7</sup>taking into possession the corporeal moveables] or anything done under this section in connection with it but the proceeds of sale shall be applied under subsection (3) above in accordance with the amount properly due and not in accordance with the amount estimated.

[<sup>F8</sup>(5) This section extends to Scotland only.]

#### Textual Amendments

- F2** S. 29(1) substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 23(a), **Sch. 7 para. 5**
- F3** Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 23(b), **Sch. 7 para. 5**
- F4** Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 23(c)(i), **Sch. 7 para. 5**
- F5** Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 23(c)(ii), **Sch. 7 para. 5**
- F6** Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 23(c)(iii), **Sch. 7 para. 5**
- F7** Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 23(d), **Sch. 7 para. 5**
- F8** S. 29(5) substituted by Finance Act 1986 (c. 41, SIF 12:2), s. 6, **Sch. 4 Pt. I para. 9**

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

**C2** S. 29 applied (1.1.1995) by 1994 c. 9, s. 18(4)(8) (with s. 19(3)); S.I. 1994/2679, art. 3.

### [<sup>F9</sup>29A Evidence by certificate, etc.

- (1) A certificate of the Commissioners—
- (a) that any notice required by or under this Act to be given to them had or had not been given at any date, or
  - (b) that any permit, licence or authority required by or under this Act had or had not been issued at any date, or
  - (c) that any return required by or under this Act had not been made at any date, or
  - (d) that any duty shown as due in any return [<sup>F10</sup>made in pursuance of this Act or in any assessment made under section 12 of the Finance Act 1994]] had not been paid at any date,
- shall be sufficient evidence of that fact until the contrary is proved.
- (2) A photograph of any document furnished to the Commissioners for the purposes of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under subsection (1) or (2) above shall be deemed to be such a certificate until the contrary is proved.

#### Textual Amendments

**F9** S. 29A inserted by Finance Act 1986 (c. 41, SIF 12:2), s. 7

**F10** Words in s. 29A(1)(d) substituted (1.1.1995) by 1994 c. 9, s. 18(5) (with s. 19(3)), S.I. 1994/2679, art. 3.

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

**C3** S. 29A applied (19.3.1997) by 1997 c. 16, ss. 13(1), 15, Sch. 1 Pt. II para. 15.

**30** ..... <sup>F11</sup>

#### Textual Amendments

**F11** S. 30 repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235, Sch. 10 Pt. IV and Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 78, Sch. 8

### **31 Protection of officers.**

Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector of Customs and Excise given in connection with the enforcement of the enactments relating to general betting duty, bingo duty or the duty on gaming licences or [<sup>F12</sup>amusement machine licences] and, apart from the provisions of this section, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, he shall not be guilty of that offence.

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#### Extent Information

- E1** S. 31 did not extend to Northern Ireland see s. 35(3) as originally enacted; s. 31 extends to Northern Ireland by 1986 c. 41, s. 6, **Sch. 4 Pt. I para. 10** except in application to enactments relating to gaming machine licences see s. 35(3)

#### Textual Amendments

- F12** Words in s. 31 substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 9(1)**.

### 32 Orders and regulations.

- (1) Any power conferred by any provision of this Act to make an order or regulations shall be exercisable by statutory instrument.
- (2) Subject to subsection (3) below, any statutory instrument made under any power conferred by this Act shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (3) A statutory instrument containing an order under section 13(4) [<sup>F13</sup>, 14(3) or 25A] above shall be laid before the House of Commons after being made and the order shall cease to have effect at the end of twenty-eight days after the day on which it was made (but without prejudice to anything previously done under the order or to the making of a new order) unless at some time before the end of those twenty-eight days the order is approved by resolution of that House; and, in reckoning for the purposes of this subsection any period of twenty-eight days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

#### Textual Amendments

- F13** Words in s. 32(3) substituted (1.5.1995) by 1995 c. 4, s. 14, **Sch. 3 para. 9(2)**.

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#### [<sup>F14</sup>32A Application to limited liability partnerships

- (1) This Act applies to limited liability partnerships as it applies to companies.
- (2) In its application to a limited liability partnership, references to a director of a company are references to a member of the limited liability partnership.]

#### Textual Amendments

- F14** S. 32A inserted (N.I.) (13.9.2004) by [Limited Liability Partnerships Regulations \(Northern Ireland\) 2004 \(S.R. 2004/307\)](#), reg. 9, **Sch. 4 para. 8**

### 33 Interpretation.

- (1) In this Act—

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“the Commissioners” means the Commissioners of Customs and Excise;  
 “gaming”<sup>F15</sup> . . . has the same meaning as in section 52 of the<sup>M1</sup>Gaming Act 1968;

“the prescribed sum” in relation to the penalty provided for an offence, means—

- (a) if the offence was committed in England or Wales, the prescribed sum within the meaning of section 32 of the<sup>M2</sup>Magistrates’ Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act); and
- (b) if the offence was committed in Scotland, the prescribed sum within the meaning of section 289B of the<sup>M3</sup>Criminal Procedure (Scotland) Act 1975 (£1,000 or other sum substituted by order under section 289D(1) of that Act).<sup>[F16]</sup>and
- (c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the<sup>M4</sup>Fines and Penalties (Northern Ireland) Order 1984.]

- (2) For the avoidance of doubt it is hereby declared that the imposition by this Act of general betting duty, pool betting duty, bingo duty or the duty on<sup>[F17]</sup>amusement machine licences] does not make lawful anything which is unlawful apart from this Act.

#### Textual Amendments

**F15** Words in s. 33(1) repealed (1.5.1995) by 1995 c. 4, ss. 14, 162, Sch. 3 para. 9(3), Sch. 29 Pt. III.

**F16** S. 33(1)(c) and the word “and” preceding it inserted by Finance Act 1985 (c. 54, SIF 12:2), s. 8, Sch. 5 Pt. I para. 7

**F17** Words in s. 33(2) substituted (1.5.1995) by 1995 c. 4, s. 14, Sch. 3 para. 9(1).

#### Marginal Citations

**M1** 1968 c. 65(12:1).

**M2** 1980 c. 43(82).

**M3** 1975 c. 21(39:1).

**M4** S.I. 1984/703 (N.I. 3).

### 34 Consequential and transitional provisions and repeals.

- (1) Schedule 5 (consequential amendments) and Schedule 6 (transitional and saving provisions) to this Act shall have effect, but without prejudice to the operation of sections 15 to 17 of the<sup>M5</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments specified in Schedule 7 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule

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

**C4** The text of s. 34(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M5** 1978 c. 30(115:1).

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**35 Short title, construction, commencement and extent.**

(1) This Act may be cited as the Betting and Gaming Duties Act 1981.

(2) This Act shall be construed as one with the <sup>M6</sup>Customs and Excise Management Act 1979.

[<sup>F18</sup>(3) The following provisions of this Act do not extend to Northern Ireland—

- (a) sections 13 to 16;
- (b) sections 29 and 30;
- (c) Schedule 2;
- (d) paragraph 15 of Schedule 4;

and sections 27 and 31 do not extend there in their application to the enactments relating to gaming licence duty.]

(4) ..... <sup>F19</sup>

**Textual Amendments**

**F18** S. 35(3) substituted by Finance Act 1986 (c. 41, SIF 12:2), s. 6, Sch. 4 Pt. I para. 10

**F19** S. 35(4) repealed by Finance Act 1986 (c. 41, SIF 12:2), ss. 6, 114(6), Sch. 4 para. 10(2), Sch. 23 Pt. III, notes (a), (b)

**Marginal Citations**

**M6** 1979 c. 2(40:1).

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