



# Finance Act 2003

## 2003 CHAPTER 14

### PART 1

#### EXCISE DUTIES

##### *Betting and gaming duties*

#### **6 General betting duty and pool betting duty: relief for losses**

- (1) Part 1 of the Betting and Gaming Duties Act 1981 (c. 63) (betting duties) is amended as follows.
- (2) In section 5 (net stake receipts) at the end of subsection (3) (negative net stake receipts to be disregarded) insert “except as provided for by section 5AA”.
- (3) After that section insert—

##### **“5AA Relief for losses**

- (1) This section applies where the amount of a person’s net stake receipts for an accounting period in respect of a class of bets (calculated in accordance with section 5(1)) is a negative amount.
- (2) That amount shall be carried forward to the following accounting period and, to the extent that it does not exceed it, deducted from the amount of the person’s net stake receipts in respect of the same class of bets for that period.
- (3) If the amount of those net stake receipts for that following accounting period—
  - (a) is not a positive amount, or
  - (b) is less than the amount carried forward,the amount carried forward or, as the case may be, the balance of it shall be treated for the purposes of this section as if it were a negative amount of net stake receipts for that period in respect of the same class of bets.”.

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- (4) Omit section 5A (multiple bets) (which becomes unnecessary as a result of the amendment made by subsection (3) above).
- (5) After section 7 (duty charged on net pool betting receipts) insert—

**“7ZA Relief for losses**

- (1) This section applies where the amount of a person’s net pool betting receipts for an accounting period is a negative amount.
- (2) That amount shall be carried forward to the following accounting period and, to the extent that it does not exceed it, deducted from the amount of the person’s net pool betting receipts for that period.
- (3) If the amount of the net pool betting receipts for that following accounting period—
- (a) is not a positive amount, or
  - (b) is less than the amount carried forward,
- the amount carried forward or, as the case may be, the balance of it shall be treated for the purposes of this section as if it were a negative amount of net pool betting receipts for that period.”.
- (6) The amendments made by this section apply in relation to any accounting period beginning on or after 1st September 2003 for which the net stake receipts in respect of a particular class of bets, or (as the case may be) the net pool betting receipts, is a negative amount.

**7 General betting duty: betting exchanges**

- (1) Part 1 of the Betting and Gaming Duties Act 1981 (c. 63) (betting duties) is amended as follows.
- (2) After section 5AA (inserted by section 6 above) insert—

**“5AB Betting exchanges**

- (1) This section applies where—
- (a) one person makes a bet with another person using facilities provided by a third person in the course of a business, and
  - (b) that business is one that does not involve the provision of premises for use by persons making or taking bets.
- (2) General betting duty shall be charged on the amounts (“commission charges”) that the parties to the bet are charged, whether by deduction from winnings or otherwise, for using those facilities.
- (3) No deductions shall be allowed from commission charges.
- (4) The amount of duty charged under this section in respect of bets determined in an accounting period shall be 15 per cent of the commission charges relating to those bets.
- (5) For the purposes of this section, and section 5B(4) so far as relating to this section, a person who arranges for facilities relating to a bet to be provided

by another person shall be treated as providing them himself (and the other person shall not).”.

- (3) In section 5B (liability to pay)—
- (a) for subsection (1) substitute—
- “(1) All general betting duty chargeable in respect of—
- (a) bets made in an accounting period, or
- (b) in the case of duty chargeable under section 5AB, bets determined in an accounting period,
- shall become due at the end of that period.”;
- (b) in subsection (4), after “section 4(1) to (3)” insert “or 5AB”.
- (4) In section 5C (bet-brokers)—
- (a) in paragraph (a) of subsection (1) (application of section) after “in the course of a business” insert “, other than a betting-exchange business.”;
- (b) at the end of that subsection insert—
- “In paragraph (a) “betting-exchange business” means a business such as is mentioned in section 5AB(1).”;
- (c) omit subsections (2) (bet treated as made between bettor and bet-broker) and (3) (subsection (2) not to apply to off-course bets where bet-taker is a bookmaker);
- (d) in subsection (4) omit the words “In the case of a bet which is excluded from subsection (2) by virtue of subsection (3).”.
- (5) The amendments made by this section apply in relation to any accounting period beginning on or after 1st June 2003.
- (6) Those amendments do not apply in relation to a bet (a “straddling bet”) that is—
- (a) made, using facilities provided by a person (“the broker”), in an accounting period of the broker beginning before 1st June 2003, but
- (b) not determined until an accounting period of the broker beginning on or after that date.
- (7) Any winnings paid in respect of a straddling bet to which section 5AB of the Betting and Gaming Duties Act 1981 (c. 63) would apply but for subsection (6) above shall be treated for the purposes of that Act as paid in the broker’s accounting period in which the bet was made (“the earlier accounting period”).
- (8) Subsection (7) shall not have effect to reduce the general betting duty payable by the broker for the earlier accounting period; but the amount of the reduction that would (but for this subsection) have been made for that period shall be set against any liability of the broker to general betting duty for accounting periods in the following three years, taking earlier periods before later ones until the amount is exhausted.

## **8 General betting duty: restriction of exemption for on-course bets**

- (1) In section 12(4) of the Betting and Gaming Duties Act 1981 (general betting duty: supplementary provisions), in the definition of “on-course bet” for “a meeting” substitute “a horse or dog race meeting”.
- (2) This section applies to bets made on or after 1st September 2003.

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## **9 Bingo duty**

- (1) For sections 17 to 20 of the Betting and Gaming Duties Act 1981 (bingo duty) substitute—

### **“17 Bingo duty**

- (1) A duty of excise, to be known as bingo duty, shall be charged—
- (a) on the playing of bingo in the United Kingdom, and
  - (b) at the rate of 15 per cent of a person’s bingo promotion profits for an accounting period.
- (2) Subsection (1) is subject to the exemptions specified in Part 1 of Schedule 3 to this Act.
- (3) The amount of a person’s bingo promotion profits for an accounting period is—
- (a) the amount of the person’s bingo receipts for the period (calculated in accordance with section 19), minus
  - (b) the amount of his expenditure on bingo winnings for the period (calculated in accordance with section 20).
- (4) Bingo duty charged in respect of a person’s bingo promotion profits shall be paid by him.
- (5) Where the amount that would be charged in respect of a person’s bingo promotion profits for an accounting period is less than £1, no duty shall be charged.

### **18 Accounting period**

- (1) For the purposes of section 17 an accounting period ends, and another begins, at the end of the last Sunday in each calendar month.
- (2) But regulations under paragraph 9 of Schedule 3 to this Act may make provision in place of subsection (1) for the purposes of the application of section 17 to specified persons or in specified circumstances.
- (3) Regulations made by virtue of subsection (2) may make transitional provision.

### **19 Bingo receipts**

- (1) A person has bingo receipts for an accounting period if payments fall due in the period in respect of entitlement to participate in bingo promoted by him.
- (2) The amount of the person’s bingo receipts for the accounting period is the aggregate of those payments.
- (3) For the purposes of subsections (1) and (2)—
- (a) an amount in respect of entitlement to participate in a game of bingo is to be treated as falling due in the accounting period in which the game is played,
  - (b) where a payment relates to a supply of services on which value added tax is chargeable, the amount of value added tax chargeable shall be

- disregarded (irrespective of whether or not that amount is paid by way of value added tax),
- (c) it is immaterial whether an amount falls due to be paid to the promoter or to another person,
  - (d) it is immaterial whether an amount is described as a fee for participation, as a stake, or partly as one and partly as the other, and
  - (e) where a sum is paid partly in respect of entitlement to participate in a game of bingo and partly in respect of another matter—
    - (i) such part of the sum as is applied to, or properly attributable to, entitlement to participate in the game shall be treated as an amount falling due in respect of entitlement to participate in the game, and
    - (ii) the remainder shall be disregarded.

## **20 Expenditure on bingo winnings**

- (1) A person's expenditure on bingo winnings for an accounting period is the aggregate of the values of prizes provided by him in that period by way of winnings at bingo promoted by him.
- (2) Where a prize is obtained by the promoter from a person not connected with him, the cost to the promoter shall be treated as the value of the prize for the purpose of subsection (1).
- (3) Where a prize is a voucher which—
  - (a) may be used in place of money as whole or partial payment for benefits of a specified kind obtained from a specified person,
  - (b) specifies an amount as the sum or maximum sum in place of which the voucher may be used, and
  - (c) does not fall within subsection (2),the specified amount is the value of the voucher for the purpose of subsection (1).
- (4) Where a prize is a voucher (whether or not it falls within subsection (2)) it shall be treated as having no value for the purpose of subsection (1) if—
  - (a) it does not satisfy subsection (3)(a) and (b), or
  - (b) its use as described in subsection (3)(a) is subject to a specified restriction, condition or limitation which may make the value of the voucher to the recipient significantly less than the amount mentioned in subsection (3)(b).
- (5) In the case of a prize which—
  - (a) is neither money nor a voucher, and
  - (b) does not fall within subsection (2),the value of the prize for the purpose of subsection (1) is—
  - (i) the amount which the prize would cost the promoter if obtained from a person not connected with him, or
  - (ii) where no amount can reasonably be determined in accordance with sub-paragraph (i), nil.
- (6) For the purpose of this section—

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- (a) a reference to connection between two persons shall be construed in accordance with section 839 of the Income and Corporation Taxes Act 1988 (connected persons), and
- (b) an amount paid by way of value added tax on the acquisition of a thing shall be treated as part of its cost (irrespective of whether or not the amount is taken into account for the purpose of a credit or refund).

### **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.

### **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.

### **20C Supplementary**

- (1) Part 2 of Schedule 3 to this Act (bingo duty: supplementary) shall have effect.

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- (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.”.
- (2) In paragraph 1 of Schedule 3 to the Betting and Gaming Duties Act 1981 (c. 63) (bingo duty: exemptions: domestic bingo) for “Bingo duty shall not be charged in respect of” substitute “In calculating liability to bingo duty no account shall be taken of”.
- (3) For paragraph 2 of Schedule 3 to the Betting and Gaming Duties Act 1981 (bingo duty: exemptions: small-scale bingo) substitute—

*“Small-scale bingo*

- 2 (1) This paragraph applies where entitlement to participate in non-licensed bingo depends on a person’s being—
- (a) a member of a group or organisation,
  - (b) a guest of a member of a group or organisation, or
  - (c) a guest of a group or organisation.
- (2) Payments in respect of entitlement to participate in the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 19.
- (3) Winnings at the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 20.
- 2A (1) In the case of non-licensed bingo to which paragraph 2 does not apply—

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- (a) payments in respect of entitlement to participate in the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 19 (subject to sub-paragraphs (2) to (5) below), and
  - (b) winnings at the non-licensed bingo shall not be brought into account in relation to any person for the purpose of section 20 (subject to sub-paragraphs (2) to (5) below).
- (2) If on a day winnings at non-licensed bingo promoted by a person exceed £500, sub-paragraph (1) shall not apply in relation to the person in respect of the accounting period in which that day falls and the next two accounting periods.
- (3) If stakes exceeding in aggregate £500 are hazarded on a day at non-licensed bingo promoted by a person, sub-paragraph (1) shall not apply in relation to the person in respect of the accounting period in which that day falls and the next two accounting periods.
- (4) If in an accounting period winnings at non-licensed bingo promoted by a person exceed £7,500, sub-paragraph (1) shall not apply in relation to the person in respect of that accounting period and the next two accounting periods.
- (5) If stakes exceeding in aggregate £7,500 are hazarded in an accounting period at non-licensed bingo promoted by a person, sub-paragraph (1) shall not apply in relation to the person in respect of that accounting period and the next two accounting periods.
- (6) For the purposes of this paragraph winnings at bingo shall be valued in accordance with section 20(2) to (6).”.
- (4) After paragraph 2A of Schedule 3 to the Betting and Gaming Duties Act 1981 (c. 63) insert—
- “Non-profit-making bingo*
- 2B In calculating liability to bingo duty no account shall be taken of bingo to which there apply (without any exception or modification by virtue of regulations) both—
- (a) section 3 of the Gaming Act 1968 or Article 56 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (prohibition on charging for participation), and
  - (b) section 4 of that Act or Article 57 of that Order (prohibition of levy on stakes or winnings).”.
- (5) In paragraph 5(1) of Schedule 3 to the Betting and Gaming Duties Act 1981 (c. 63) (bingo duty: exemptions: commercial amusements) for “Bingo duty shall not be charged in respect of” substitute “In calculating liability to bingo duty no account shall be taken of”.
- (6) In paragraph 6 of Schedule 3 to that Act (bingo duty: exemptions: machine bingo) for “Bingo duty shall not be charged in respect of” substitute “In calculating liability to bingo duty no account shall be taken of”.



- (7) In paragraph 10(1) of Schedule 3 to that Act (notification and registration of bingo-promoters) for “which will, or may, be chargeable with bingo duty” substitute “in connection with which bingo duty may be chargeable”.
- (8) The following paragraphs of Schedule 3 to that Act shall cease to have effect—
- (a) paragraph 11 (announcement of prizes),
  - (b) paragraph 12 (records), and
  - (c) paragraph 15 (disputes).
- (9) In paragraph 16(2) of Schedule 3 to that Act (enforcement)—
- (a) for “(being bingo which is or may be chargeable with bingo duty)” substitute “(being bingo in connection with which bingo duty may be chargeable)”, and
  - (b) paragraph (b) (and the word “or” immediately before it) shall cease to have effect.
- (10) This section shall have effect in relation to bingo played on or after 27th October 2003 (with which day the first accounting period for the purposes of section 17 of the Betting and Gaming Duties Act 1981 shall begin).

## **10 Amusement machines not operated by coins or tokens**

- (1) In section 21 of the Betting and Gaming Duties Act 1981 (amusement machine licences), for subsections (3B) to (3D) (meaning of “fifty-penny machine”) substitute—
- “(3B) For the purposes of this section an amusement machine is a “fifty-penny machine” if, and only if—
- (a) where it is a machine on which a game can be played solo, the cost for each time the game is played on it solo—
    - (i) does not exceed 50p, or
    - (ii) where the machine provides differing numbers of games in different circumstances, cannot exceed 50p;
  - and
  - (b) where it is a machine on which a game can be played by more than one person at a time, the cost per player for each time the game is played on it simultaneously by more than one player—
    - (i) does not exceed 50p, or
    - (ii) where the machine provides differing numbers of games in different circumstances, cannot exceed 50p.”.
- (2) In section 25(1) of that Act (definition of “amusement machine”), in paragraph (c) for “coin or token” substitute “coin, token or other thing”.
- (3) In section 26(2) of that Act (interpretation), for the definitions of “two-penny machine”, “five-penny machine” and “ten-penny machine” substitute—
- ““two-penny machine” means an amusement machine in relation to which the cost for each time a game is played on it—
- (a) does not exceed 2p, or
  - (b) where the machine provides differing numbers of games in different circumstances, cannot exceed 2p,

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and “five-penny machine” and “ten-penny machine” have a corresponding meaning.”.

- (4) In the following provisions of the Value Added Tax Act 1994 (c. 23)—
- (a) the definition of “gaming machine” in section 23(4), and
  - (b) Note (3) (definition of “gaming machine”) to Group 4 of Schedule 9, for “coin or token” substitute “coin, token or other thing”.

## 11 Amusement machines: use of currencies other than sterling

- (1) In section 26 of the Betting and Gaming Duties Act 1981 (c. 63) (interpretation etc), omit the definition of “coin” in subsection (2).
- (2) After that section insert—

### “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.”.
- (3) This section does not apply in relation to any amusement machine licence granted before the day on which this Act is passed or to anything done under such a licence.

## 12 Responsibility for unlicensed amusement machines

- (1) In section 24(5) of the Betting and Gaming Duties Act 1981 (c. 63) (penalty for unlicensed amusement machines), for paragraph (c) (liability of person responsible for, inter alia, issuing or exchanging coins etc for amusement machine) substitute—
 

“(c) is a person responsible for controlling the use of any amusement machine on the premises, or”.
- (2) In Schedule 4A to that Act (unlicensed amusement machines), for paragraph (c) of paragraph 7(3) (which makes similar provision) substitute—

“(c) responsible for controlling the use of any amusement machine on the premises, or”.

### **13 Rates of gaming duty**

(1) For the Table in section 11(2) of the Finance Act 1997 (c. 16) (rates of gaming duty) substitute—

“TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £502,500	2.5 per cent.
The next £1,115,500	12.5 per cent.
The next £1,115,500	20 per cent.
The next £1,953,000	30 per cent.
The remainder	40 per cent.”

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2003.