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## SCHEDULES

### SCHEDULE 1

Section 8

#### REMOTE GAMING DUTY

#### PART 1

##### IMPOSITION OF DUTY

- 1 The sections set out below are to be inserted in Part 2 of BGDA 1981 (gaming duties) before section 26A (which is renumbered 26N).
- 2 Those sections are—

*“Remote gaming duty*

#### **Interpretation**

- 26A(1) For the purposes of remote gaming duty “remote gaming” means gaming in which persons participate by the use of—
- (a) the internet,
  - (b) telephone,
  - (c) television,
  - (d) radio, or
  - (e) any other kind of electronic or other technology for facilitating communication.
- (2) For the purposes of remote gaming duty the expressions listed below shall be construed (for the whole of the United Kingdom) in accordance with the Gambling Act 2005.

<i>Expression</i>	<i>Defining provision of Gambling Act 2005</i>
Provision of facilities	Section 5(1) to (3)
Remote gambling equipment	Section 36(4) and (5)
Remote operating licence	Section 67

- (3) In relation to remote gaming duty “P” means a person who provides facilities for remote gaming.
- (4) The Treasury may by order amend the definition of “remote gaming” in subsection (1) (and an order may include incidental, consequential or transitional provision).

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### **The duty**

- 26B 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).

### **The rate**

- 26C (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).

### **Accounting periods**

- 26D (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.

### **Remote gaming receipts**

- 26E (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).

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- (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.

### **Remote gaming winnings**

- 26F (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.

### **Losses**

- 26G 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.

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### **Exemptions**

- 26H(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.

### **Liability to pay**

- 26I (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.

### **Registration**

- 26J (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.

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## Returns

- 26K(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.
- (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.

## Enforcement

- 26L (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.

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## **Review and appeal**

- 26M(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),
  - (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.”

## **PART 2**

### CONSEQUENTIAL AMENDMENTS

- 3 In BGDA 1981, before section 26N (non-sterling amounts) (as renumbered by paragraph 1 above) insert the italic cross-heading “General”.
- 4 In section 31 of that Act (protection of officers), after “bingo duty” insert “, remote gaming duty”.
- 5 In section 32 of that Act (subordinate legislation), after subsection (2) insert—
- “(3) But in the case of an order under section 26H(4) which has the effect of adding to the class of activities in respect of which remote gaming duty is chargeable—
- (a) subsection (2) above shall not apply, and
  - (b) the order may not be made unless a draft has been laid before and approved by resolution of the House of Commons.”
- 6 In section 33(2) of that Act (no legalising effect), after “bingo duty” insert “, remote gaming duty”.

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