

SCHEDULES

SCHEDULE 1

Section 13.

GAMING DUTY: ADMINISTRATION, ENFORCEMENT ETC

PART I

THE GAMING DUTY REGISTER

The Register

- 1 The Commissioners shall establish and maintain a register of persons involved in the provision of dutiable gaming.

Interpretation

- 2 (1) In this Part of this Schedule—
“the register” means the gaming duty register;
“registered person” means a person registered on the register; and
“registrable person” has the meaning given by paragraph 3 below.
- (2) For the purposes of this Part of this Schedule premises in the United Kingdom are “unlicensed premises” unless they are premises in Great Britain—
(a) in respect of which a licence under the Gaming Act 1968 is for the time being in force, or
(b) in respect of which a club or miners' welfare institute is for the time being registered under Part II of that Act.
- (3) References in this Part of this Schedule to being a member of a group and to being the representative member of a group shall be construed in accordance with paragraph 8 below.

Registration

- 3 (1) The Commissioners shall, on receipt of a valid application made by—
(a) a registrable person, or
(b) a person who expects dutiable gaming to take place and to become a registrable person if it does,
add that person to the register.
- (2) The following provisions of this paragraph have effect for the interpretation of subparagraph (1) above.
- (3) A valid application is one which is made in such form and manner, and is accompanied by such information, as the Commissioners may require.

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- (4) Subject to sub-paragraph (5) below—
 - (a) the holder of a licence under the Gaming Act 1968 is a registrable person if and for so long as dutiable gaming takes place on the premises in respect of which the licence is for the time being in force;
 - (b) a provider of unlicensed premises is a registrable person if and for so long as dutiable gaming takes place on those premises;
 - (c) a person is a registrable person if and for so long as he is concerned in the organisation or management of dutiable gaming that takes place on unlicensed premises.
- (5) A body corporate cannot be a registrable person if it—
 - (a) is a member of a group, but
 - (b) is not the representative member of that group.
- (6) A body corporate which—
 - (a) is the representative member of a group, and
 - (b) is not a registrable person in its own right,
 is a registrable person if another body corporate which is a member of that group would be a registrable person but for sub-paragraph (5) above.

Cancellation of registration

- 4 (1) This paragraph has effect for determining when a registered person is to be removed by the Commissioners from the register.
- (2) Where the Commissioners receive a valid notice from a registered person stating that he has ceased to be a registrable person, he shall be removed from the register.
- (3) Where the Commissioners receive a valid notice from a registered person stating that he will, from a time specified in the notice, cease to be a registrable person, he shall be removed from the register with effect from that time.
- (4) Where—
 - (a) a registered person has been added to the register on an application made under paragraph 3(1)(b) above, and
 - (b) the Commissioners receive a valid notice from him stating—
 - (i) that the dutiable gaming which he expected to take place has not taken place, and
 - (ii) that he no longer expects it to take place,
 he shall be removed from the register.
- (5) Where it appears to the Commissioners that a registered person has ceased to be a registrable person, he shall be removed from the register.
- (6) A registered person shall be removed from the register if—
 - (a) he has been added to the register on an application made under paragraph 3(1)(b) above, and
 - (b) it appears to the Commissioners that the dutiable gaming which he expected to take place has not taken place and can no longer be expected to take place.

- (7) For the purposes of this paragraph, a valid notice is one which is given in such form and manner, and accompanied by such information, as the Commissioners may require.

Penalties in connection with registration

- 5 (1) There is a contravention of this sub-paragraph by every person who is a responsible person in relation to any premises if—
- (a) dutiable gaming takes place on those premises on or after 1st October 1997; and
 - (b) at the time when the gaming takes place, no person by whom those premises are notifiable is registered on the register.
- (2) For the purposes of this paragraph, a person is a responsible person in relation to any premises if—
- (a) he is a registrable person; and
 - (b) those premises are notifiable by him.
- (3) Where a person contravenes sub-paragraph (1) above, that contravention shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties.
- (4) References in this paragraph to premises being notifiable are references to them being notifiable for the purposes of paragraph 6 below.

Notification of premises

- 6 (1) This paragraph has effect for determining the premises to be specified in a registered person's entry on the register.
- (2) A person who makes an application under paragraph 3(1) above shall, on making that application, notify the Commissioners of all the premises which—
- (a) are notifiable by him, or
 - (b) in a case where his application is made under paragraph 3(1)(b), will become notifiable by him if the expected gaming takes place;
- and the Commissioners shall, on registering him on the register, cause those premises to be specified in his entry on the register.
- (3) Where any premises not currently notified by a registered person become notifiable by him—
- (a) he shall notify the Commissioners of those premises, and
 - (b) the Commissioners shall cause those premises to be specified in his entry on the register.
- (4) Subject to sub-paragraph (5) below, where any premises currently notified by a registered person cease to be notifiable by him—
- (a) he shall notify the Commissioners of that fact, and
 - (b) they shall cause those premises to be no longer specified in his entry on the register.
- (5) A registered person is not required to notify the Commissioners as mentioned in sub-paragraph (4) above in a case where—

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- (a) he gives notice to the Commissioners under paragraph 4(2) above; or
 - (b) the premises ceasing to be notifiable by him so cease in accordance with a notification previously given by him to the Commissioners under sub-paragraph (6) below.
- (6) Where—
 - (a) any premises are currently notified by a registered person, and
 - (b) he notifies the Commissioners of the date on which those premises will cease to be notifiable by him,

the Commissioners shall ensure that those premises cease, with effect from that date, to be specified in his entry on the register.
- (7) Subject to sub-paragraph (8) below, where—
 - (a) any premises are currently notified by a registered person,
 - (b) that person has been added to the register on an application made under paragraph 3(1)(b) above,
 - (c) any of the dutiable gaming which he expected to take place has not taken place,
 - (d) he no longer expects that gaming to take place, and
 - (e) in consequence of events turning out as mentioned in paragraphs (c) and (d) above, those premises have not and will not become notifiable by him,

he shall notify the Commissioners accordingly and they shall cause those premises to be no longer specified in his entry on the register.
- (8) A registered person is not required to notify the Commissioners as mentioned in sub-paragraph (7) above in a case where he gives notice to the Commissioners under paragraph 4(4) above.
- (9) For the purposes of this paragraph premises are currently notified by any person at any time if at that time they are specified in his entry on the register.
- (10) For the purposes of this paragraph, in the case of a person who is not a body corporate, or who is a body corporate that is not a member of any group—
 - (a) premises in respect of which a licence under the Gaming Act 1968 is for the time being in force are notifiable by him if and for so long as—
 - (i) he is the holder of the licence, and
 - (ii) dutiable gaming takes place on those premises;
 - (b) unlicensed premises of which he is a provider are notifiable by him if and for so long as dutiable gaming takes place on those premises; and
 - (c) any unlicensed premises of which he is not a provider are notifiable by him if and for so long as—
 - (i) dutiable gaming takes place on those premises, and
 - (ii) he is concerned in the organisation or management of that gaming.
- (11) For the purposes of this paragraph, in the case of a body corporate which is the representative member of a group—
 - (a) premises in respect of which a licence under the Gaming Act 1968 is for the time being in force are notifiable by the representative member if and for so long as—
 - (i) it, or another body corporate which is a member of that group, is the holder of the licence, and

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- (ii) dutiable gaming takes place on those premises;
- (b) unlicensed premises of which the representative member or any such other body corporate is a provider are notifiable by the representative member if and for so long as dutiable gaming takes place on those premises; and
- (c) unlicensed premises which are not notifiable by the representative member by virtue of paragraph (b) above are notifiable by it if and for so long as—
 - (i) dutiable gaming takes place on those premises, and
 - (ii) it or any such other body corporate is concerned in the organisation or management of that gaming.

Penalties in connection with notification

- 7 (1) Where, in contravention of paragraph 6(2) above, a person fails to notify the Commissioners of any premises, that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (2) Where—
- (a) by virtue of paragraph 6(3), (4) or (7) above, a person at any time becomes subject to a requirement to notify the Commissioners of any premises or fact, and
 - (b) he fails to comply with that requirement before the end of the period of seven days beginning with the day on which that time falls,
- that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties for every day after the end of that period on which the failure to notify continues.

Groups

- 8 (1) Two or more bodies corporate are eligible to be treated as members of a group for the purposes of this Part of this Schedule if each is resident or has an established place of business in the United Kingdom and—
- (a) one of them controls each of the others;
 - (b) one person (whether a body corporate or an individual) controls all of them; or
 - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) Subject to sub-paragraph (3) below, where an application for the purpose is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from such date as may be specified in the application—
- (a) they shall be so treated for the purposes of this Part of this Schedule; and
 - (b) such one of them as may be specified in the application shall be the representative member for those purposes.
- (3) The Commissioners may refuse an application under sub-paragraph (2) above if, and only if, it appears to them necessary to do so for the protection of the revenue from gaming duty.
- (4) Where any bodies corporate are treated as members of a group for the purposes of this Part of this Schedule and an application for the purpose is made to the Commissioners, then, from such time as may be specified in the application—

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- (a) a further body eligible to be so treated shall be included among the bodies so treated; or
 - (b) a body corporate shall be excluded from the bodies so treated; or
 - (c) another member of the group shall be substituted as the representative member; or
 - (d) the bodies corporate shall no longer be treated as members of a group.
- (5) If it appears to the Commissioners necessary to do so for the protection of the revenue from gaming duty, they may—
 - (a) refuse any application made for the purpose mentioned in paragraph (a) or (c) of sub-paragraph (4) above; or
 - (b) refuse any application made for the purpose mentioned in paragraph (b) or (d) of that sub-paragraph in a case that does not appear to them to fall within sub-paragraph (6)(a) and (b) below.
- (6) Where—
 - (a) a body corporate is treated as a member of a group for the purposes of this Part of this Schedule by virtue of being controlled by any person, and
 - (b) it appears to the Commissioners that it has ceased to be so controlled,
 they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (7) Where—
 - (a) a notice under sub-paragraph (6) above is given to a body corporate which is the representative member of a group,
 - (b) there are two or more other bodies corporate who will continue to be treated as members of the group after the time when that notice takes effect, and
 - (c) none of those bodies corporate is substituted from that time, or from before that time, as the representative member of the group in pursuance of an application under sub-paragraph (4)(c) above,
 the Commissioners shall, by notice given to such one of the bodies corporate mentioned in paragraph (b) above as they think fit, substitute that body corporate as the representative member as from that time.
- (8) Where a notice under sub-paragraph (6) above is given to one member of a group of which there is only one other member, then (subject to any further application under this paragraph) the other member shall also cease, from the time specified in the notice, to be treated for the purposes of this Part of this Schedule as a member of the group.
- (9) An application under this paragraph with respect to any bodies corporate—
 - (a) must be made by one of those bodies or by the person controlling them; and
 - (b) must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (10) For the purposes of this paragraph a body corporate shall be taken to control another body corporate if—
 - (a) it is empowered by statute to control that body's activities; or
 - (b) it is that body's holding company within the meaning of section 736 of the Companies Act 1985;

and an individual or individuals shall be taken to control a body corporate if (were he or they a company) he or they would be that body's holding company within the meaning of that Act.

- (11) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any refusal by the Commissioners of an application under sub-paragraph (2) or (4) above as if that refusal were a decision of a description specified in Schedule 5 to that Act.

PART II

OTHER PROVISIONS

Accounting periods

- 9 (1) Where, in the case of any premises, the Commissioners and every relevant person so agree, the provisions of sections 10 to 15 of this Act and this Schedule shall have effect in relation to those premises as if accounting periods for the purposes of those provisions were periods of six months beginning on such dates other than 1st October and 1st April as may be specified in the agreement.
- (2) For the purposes of sub-paragraph (1) above, a person is a relevant person in relation to any premises if—
- (a) he is registered on the gaming duty register, and
 - (b) the entry relating to him on the register specifies those premises.
- (3) The Commissioners shall not enter into an agreement under this paragraph for a change in the date on which an accounting period begins in relation to any premises unless they are satisfied that appropriate transitional provision for the protection of the revenue is contained in the agreement.
- (4) The provision which, for the purposes of sub-paragraph (3) above, may be contained in any agreement under this paragraph shall include any such provision as may be contained in regulations under section 11(5) of this Act.
- (5) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any refusal of the Commissioners to enter into an agreement under this paragraph, or to enter into such an agreement on particular terms, as if that refusal were a decision of a description specified in Schedule 5 to that Act.

Directions as to the making of returns

- 10 (1) The Commissioners may give directions as to the making of returns in connection with gaming duty by—
- (a) persons registered on the gaming duty register;
 - (b) persons liable to pay any gaming duty.
- (2) Directions under this paragraph may, in particular, make provision as to—
- (a) when any returns are to be made;
 - (b) the persons by whom any returns are to be made;
 - (c) the form in which any returns are to be made;
 - (d) the information to be given in any returns;

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- (e) the declarations to be contained in returns and the manner in which returns are to be authenticated;
 - (f) returns being treated as not made until received by the Commissioners;
 - (g) the places to which returns are to be made.
- (3) Where a person fails to comply with any provision of a direction given under this paragraph, that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties.

Regulations

- 11 (1) The Commissioners may make regulations providing for any matter for which provision appears to them to be necessary or expedient for the administration or enforcement of gaming duty, or for the protection of the revenue from that duty.
- (2) Regulations under this paragraph may, in particular, include provision as to the giving and operation of directions under section 11(6) of this Act.
- (3) Where any person contravenes or fails to comply with any of the provisions of any regulations under this paragraph, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).

Offences

- 12 (1) Any person who obstructs any officer in the exercise of his functions in relation to gaming duty shall be guilty of an offence and liable, on summary conviction, to a penalty of level 5 on the standard scale.
- (2) Any person who—
- (a) in connection with gaming duty, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,
 - (b) in that connection, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or
 - (c) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by him or any other person) of any gaming duty or of any obligation to make a payment on account of gaming duty,
- shall be guilty of an offence.
- (3) A person guilty of an offence under sub-paragraph (2) above shall be liable—
- (a) on summary conviction, to a penalty of—
 - (i) the statutory maximum, or
 - (ii) if greater, three times the duty or other amount which is unpaid or the payment of which is sought to be avoided,
 or to imprisonment for a term not exceeding six months, or to both;
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding—
 - (i) two years in the case of an offence by virtue of sub-paragraph (2) (a) above, and
 - (ii) seven years in any other case,
 or to both.

- (4) Section 27 of the Betting and Gaming Duties Act 1981 (offences by bodies corporate) shall have effect for the purposes of any offence under this paragraph as it has effect for the purposes of the offences mentioned in that section.
- (5) Where a person has committed an offence under sub-paragraph (2) above, all designated items related to the relevant gaming shall be liable to forfeiture if—
 - (a) at the time the offence was committed that person was not registered on the gaming duty register; and
 - (b) the relevant gaming did not take place on premises which, at the time the offence was committed, were specified in any person's entry on that register.
- (6) In sub-paragraph (5) above, “the relevant gaming” means—
 - (a) in relation to an offence under sub-paragraph (2)(a) or (b) above, any gaming to which the false statement or (as the case may be) the false document related; and
 - (b) in relation to an offence under sub-paragraph (2)(c) above, any gaming on the premises the gaming duty on which was, or was sought to be, fraudulently evaded.
- (7) For the purposes of sub-paragraph (5) above, the designated items related to any gaming are—
 - (a) any furniture, machines and other articles and equipment which—
 - (i) are on the premises where the gaming takes place; and
 - (ii) have been or are being, or are capable of being, used for or in connection with gaming;
 - and
 - (b) any cash and gaming chips in the custody or under the control of any person who—
 - (i) is a provider of the premises on which the gaming takes place, or
 - (ii) is in any way concerned with the organisation or management of the gaming.
- (8) For the purposes of sub-paragraph (7)(b) above the cash and gaming chips taken to be under the control of a person who is the provider of any premises or is concerned with the organisation or management of gaming on any premises shall include all cash and gaming chips in play or left on a gaming table on those premises.

Distress and poinding

- 13 (1) Sections 28 and 29 of the Betting and Gaming Duties Act 1981 (recovery of duty) shall have effect as follows so as to apply in relation to gaming duty as they applied in relation to the duty on gaming licences—
- (a) in subsection (1) of each section, for “or 14 above or of Schedule 2 to this Act” there shall be substituted “above or sections 10 to 15 of, and Schedule 1 to, the Finance Act 1997”; and
 - (b) in subsections (2) and (3) of each section, for the words “the duty on a gaming licence” there shall be substituted—
 - (i) in the first place where they occur in subsection (2), the words “the gaming duty”; and
 - (ii) in the other places where they occur, the words “gaming duty”.

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- (2) Sub-paragraph (1) above shall cease to have effect on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this sub-paragraph for different purposes.

Disclosure of information

- 14 (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise shall prevent—
- (a) the Commissioners or an authorised officer of the Commissioners from disclosing to the Gaming Board for Great Britain or to an authorised officer of that Board, or
 - (b) that Board or an authorised officer of that Board from disclosing to the Commissioners or an authorised officer of the Commissioners,
- information for the purpose of assisting the Commissioners in the carrying out of their functions with respect to gaming duty or, as the case may be, that Board in the carrying out of that Board's functions under the Gaming Act 1968.
- (2) Information obtained by virtue of a disclosure authorised by this paragraph shall not be disclosed except—
- (a) to the Commissioners or the Gaming Board for Great Britain or to an authorised officer of the Commissioners or that Board; or
 - (b) for the purposes of any proceedings connected with a matter in relation to which the Commissioners or that Board carry out the functions mentioned in sub-paragraph (1) above.

Evidence by certificate

- 15 Section 29A of the Betting and Gaming Duties Act 1981 (evidence by certificate) shall apply for the purposes of sections 10 to 15 of this Act and this Schedule as it applies for the purposes of that Act.

Protection of officers

- 16 Section 31 of the Betting and Gaming Duties Act 1981 (protection of officers) shall apply for the purposes of gaming duty as it applies for the purposes of general betting duty.