

Status: Point in time view as at 10/07/2003.

Changes to legislation: Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 4A

UNLICENSED AMUSEMENT MACHINES

Textual Amendments

- F1** Sch. 4A inserted (28.7.2000 with effect as mentioned in Sch. 2 para. 10(2) of the amending Act) by 2000 c. 17, s. 17, Sch. 2 para. 10(1)

Application

- 1 This Schedule applies where it appears to the Commissioners that an amusement machine is or was provided for play on premises in contravention of section 21(1) or 24(3) or (4) of this Act.

Default notice requesting production of licence

- 2 (1) The Commissioners may give a notice which complies with the requirements of sub-paragraphs (3) and (4) below.
- (2) In this Schedule such a notice is referred to as a “default notice”.
- (3) The notice shall state that one or more amusement machines appear to have been provided for play on specified premises (“relevant premises”) during a specified period (the “alleged default period”)—
- (a) the first day of which falls not more than three years before the date of the notice, and
 - (b) the last day of which falls on or before the date of the notice.
- (4) The notice shall request the production to the Commissioners on or before a specified date (the “due date”) of every relevant amusement machine licence.
- (5) For the purposes of sub-paragraph (4) above an amusement machine licence is a relevant licence if, at any time during the alleged default period, it was in force in relation to an amusement machine provided for play on the relevant premises at that time.
- (6) A single default notice may relate to—
- (a) different alleged default periods, or
 - (b) different relevant premises.
- (7) A default notice shall be deemed to have been given if it is—
- (a) left at, or posted to, the relevant premises, or
 - (b) given to, or posted to or left at the proper address of one or more persons falling within sub-paragraph (8) below.

Status: Point in time view as at 10/07/2003.

Changes to legislation: Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Those persons are—
- (a) one or more of the persons who are or appear to be, or who at any time during the alleged default period were or appear to have been, responsible persons in relation to the relevant premises or an amusement machine provided for play on those premises, or
 - (b) any person who is the representative of such a person.

Failure to produce a licence: grant of default licence

- 3 (1) In any case where—
- (a) the Commissioners give a default notice,
 - (b) the due date specified in the notice passes, and
 - (c) it appears to the Commissioners that at some time during the alleged default period specified in the notice one or more amusement machines were provided for play on the relevant premises so specified without an amusement machine licence being in force in relation to the machines,
- the Commissioners may grant, in accordance with this paragraph, one or more licences in relation to each of the machines.
- (2) In this Schedule—
- “default licence” means a licence granted by the Commissioners under sub-paragraph (1) above;
 - “unlicensed machine” means a machine in relation to which a default licence is granted by the Commissioners.
- (3) The Commissioners may grant a separate default licence for each period of consecutive days—
- (a) which falls within the alleged default period, and
 - (b) for which no amusement machine licence in force in relation to the unlicensed machine was produced.
- (4) The Commissioners may grant a default licence in relation to an unlicensed machine even though the period of that licence would include a day or days when the unlicensed machine was provided for play in contravention of section 21(1) or 24(3) or (4) of this Act on premises other than the relevant premises specified in the applicable default notice.
- (5) In a case where the Commissioners grant a default licence in accordance with sub-paragraph (4) above, references in this Schedule to the relevant premises shall be construed in relation to any particular time as references to the premises on which the machine was provided for play at that time.
- (6) The Commissioners may grant a default licence even though no application has been made for it.
- (7) A default licence may be granted for a period of any length (whether or not a licence under Schedule 4 to this Act could be granted for a period of that length).

Assessment of amount equivalent to duty

- 4 (1) This paragraph applies where a default licence is granted in relation to an unlicensed machine.

Status: Point in time view as at 10/07/2003.

Changes to legislation: Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The Commissioners may, subject to the following provisions of this paragraph, assess to the best of their judgement the amount which would have been payable under this Act as amusement machine licence duty if the default licence had been an amusement machine licence granted under Schedule 4 to this Act.
- (3) The Commissioners shall make the assessment using the rates of amusement machine licence duty which apply in relation to amusement machine licences granted in consequence of applications received by the Commissioners on the due date.
- (4) If the period of the licence is 12 months or less, the assessment shall be made as if an amusement machine licence had been granted in relation to the unlicensed machine for that period.
- (5) If the period of the licence is longer than 12 months, the assessment shall be made as if—
 - (a) a separate amusement machine licence had been granted in relation to the unlicensed machine for each complete period of 12 months falling wholly within the period of the licence, and
 - (b) a further amusement machine licence had been granted in relation to the unlicensed machine for any remaining part of the period of the licence.
- (6) Sub-paragraphs (7) and (8) below shall apply in relation to an assessment to be made in any case where—
 - (a) the period of a licence mentioned in sub-paragraph (4) above, or
 - (b) the part of the period mentioned in sub-paragraph (5)(b) above,is not a period of complete months.
- (7) Any period of less than a month comprised in the period or the part of the period shall be treated as a complete month; and accordingly the period or the part of the period in question shall be treated as if it consisted of a complete month or, as the case may be, complete months.
- (8) The amusement machine licence treated as granted for such a period, or for such a part of a period, shall be treated as having been—
 - (a) granted for that period, or that part of the period, as extended in accordance with sub-paragraph (7) above, and
 - (b) surrendered at the end of the last day of the period mentioned in sub-paragraph (4) above or, as the case may be, of the part of the period mentioned in sub-paragraph (5)(b) above.

Liability to pay

- 5 (1) Where an amount has been assessed under paragraph 4 above and notified to a responsible person or his representative, that amount—
 - (a) shall be deemed to be an amount of duty charged in accordance with section 22 of this Act on an amusement machine licence within the meaning of section 21 of this Act,
 - (b) shall be due from the responsible person, and
 - (c) may be recovered accordingly unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (2) The responsible persons to whom an assessment may be notified are any one or more of the persons who are or appear to be, or at any time during the period to which the

Status: Point in time view as at 10/07/2003.

Changes to legislation: Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

assessment relates were or appear to have been, responsible persons in relation to the unlicensed machine or the relevant premises.

- (3) An assessment shall be deemed to have been notified to a person if it is—
 - (a) given to him, or
 - (b) left at or posted to his proper address.
- (4) But an assessment shall not be deemed to have been notified to a person unless and until—
 - (a) the default licence in relation to which the assessment has been made, or
 - (b) a copy of that licence,
 has been given to him, or left at or posted to his proper address.
- (5) Where an amount has been assessed and notified to more than one responsible person (or his representative), that amount shall be recoverable jointly and severally from any or all of the responsible persons.
- (6) Arrangements made in accordance with paragraph 7A of Schedule 4 to this Act do not apply in relation to an amount assessed and notified in accordance with this paragraph.

Reviews and time limits on recovery

- 6 (1) Section 14 of the ^{M1}Finance Act 1994 (reviews of decisions) shall apply to so much of any decision by the Commissioners as is of any of the kinds mentioned in sub-paragraph (2) below, as it applies to the decisions mentioned in subsection (1) of that section.
- (2) Those decisions are—
 - (a) any decision that a default licence should be granted,
 - (b) any decision contained in an assessment under paragraph 4 above that a person is liable to pay an amount of duty, and
 - (c) any decision contained in an assessment under paragraph 4 above as to the amount of a person's liability.
- (3) Sub-paragraph (4) below applies where the Commissioners—
 - (a) have given a default notice, and
 - (b) in consequence of so doing have granted a default licence.
- (4) An assessment made under paragraph 4 above in relation to the default licence may not be notified to a responsible person (or his representative) at any time after the end of the period of one year beginning with the due date specified in the default notice.
- (5) The reference to three years in paragraph 2(3)(a) above shall have effect as if it were a reference to twenty years in any case where sub-paragraph (6) or (7) below applies.
- (6) This sub-paragraph applies where an amusement machine has been provided for play in circumstances where a person—
 - (a) has, by virtue of conduct engaged in for the purpose of evading any amount of amusement machine licence duty, become liable to a penalty under section 8 of the Finance Act 1994, or
 - (b) has been convicted of an offence under section 24(6) of this Act.

Status: Point in time view as at 10/07/2003.

Changes to legislation: Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) This sub-paragraph applies where an amusement machine has been provided for play in circumstances where proceedings for an offence under section 24(6) of this Act would have been commenced or continued against a person (whether or not the person assessed), but for their having been compounded under section 152(a) of the ^{M2}Customs and Excise Management Act 1979.

Marginal Citations

M1 1994 c. 9.

M2 1979 c. 2.

General interpretation

- 7 (1) The following provisions of this paragraph apply for the purposes of this Schedule.
- (2) A person is a responsible person in relation to an amusement machine at a particular time if, at that time, he is or was—
- (a) the owner or hirer of the machine, or
 - (b) a party to any contract under which the machine may be, or may have been, or is or was required to be, on the relevant premises at that time.
- (3) A person is a responsible person in relation to relevant premises at a particular time if, at that time, he is or was—
- (a) the owner, lessee or occupier of the premises, or
 - (b) responsible to the owner, lessee or occupier for the management of the premises, or
 - [^{F2}(c) responsible for controlling the use of any amusement machine on the premises, or]
 - (d) responsible for controlling the admission of persons to the premises or for providing persons resorting to the premises with any goods or services.
- (4) A person's representative is—
- (a) his personal representative,
 - (b) his trustee in bankruptcy,
 - (c) any receiver or liquidator appointed in relation to him or any of his property, or
 - (d) any other person acting in a representative capacity in relation to him.
- (5) The proper address of a person is—
- (a) in the case of a body corporate, its registered office or principal office, and
 - (b) in any other case—
 - (i) his last known place of abode or business, or
 - (ii) any vessel or aircraft to which he may belong or have lately belonged.
- (6) An item is only to be treated as posted to an address or place if it has been sent there by registered post or the recorded delivery service.

Status: Point in time view as at 10/07/2003.

Changes to legislation: *Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F2 Words in [Sch. 4A para. 7\(3\)\(c\)](#) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 12\(2\)](#)

Saving for liability

- 8 The grant of a default licence in relation to an unlicensed machine shall be without prejudice to any liability arising under section 24 of this Act in relation to the machine.]

Status:

Point in time view as at 10/07/2003.

Changes to legislation:

Betting and Gaming Duties Act 1981, Schedule 4A is up to date with all changes known to be in force on or before 09 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.