

## SCHEDULES

### SCHEDULE 3

Section 14.

#### AMUSEMENT MACHINE LICENCE DUTY

##### *Introductory*

- 1 The Betting and Gaming Duties Act 1981 shall be amended in accordance with paragraphs 2 to 11 below.

##### *Amusement machine licences*

- 2 (1) In section 21 (gaming machine licences)—
- (a) in subsection (1), for the words “gaming machine” and “for gaming” there shall be substituted, respectively, “amusement machine” and “for play”;
  - (b) in subsection (2), for “a gaming machine licence” there shall be substituted “an amusement machine licence”; and
  - (c) in subsection (3), for “A gaming machine licence” there shall be substituted “An amusement machine licence”.
- (2) In subsection (3A) of that section (excepted machines), for paragraph (b) there shall be substituted the following paragraphs—
- “(b) a five-penny machine which is a prize machine without being a gaming machine or which (if it is a gaming machine) is a small-prize machine, or
  - (c) a thirty-five-penny machine which is not a prize machine.”

##### *Amusement machine licence duty*

- 3 (1) In subsection (1) of section 22 (duty on gaming machine licences), for “gaming machine” there shall be substituted “amusement machine”.
- (2) In subsection (2) of that section (meaning of “small-prize machine”), for “a gaming machine is a small-prize machine if” there shall be substituted “an amusement machine is a small-prize machine if it is a prize machine and”.

##### *Rate of duty*

- 4 (1) In subsection (1) of section 23 (determination of rate of duty by reference to Table), for “a gaming machine licence” there shall be substituted “an amusement machine licence”.
- (2) In subsection (2) of that section—
- (a) in paragraph (b), for “or column 3” there shall be substituted “, column 3 or column 4”; and

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- (b) in the words after that paragraph, for the words “gaming” and “or the rate in column 3” there shall be substituted, respectively, “amusement” and “, the rate in column 3 or the rate in column 4”.
- (3) For the Table in that subsection (as substituted by section 13 of this Act) there shall be substituted the following Table—

TABLE

(1)	(2)	(3)	(4)
<i>Period (in months) for which licence granted</i>	<i>Machines that are not gaming machines</i>	<i>Gaming machines that are small-prize machines or are five-penny machines without being small-prize machines</i>	<i>Other machines</i>
	£	£	£
1	30	60	150
2	50	105	275
3	75	155	400
4	95	205	520
5	120	250	645
6	140	295	755
7	160	340	880
8	185	390	1,005
9	205	435	1,115
10	225	480	1,235
11	240	510	1,305
12	250	535	1,375

*Restrictions on provision of machines*

- 5 In section 24 (restrictions on provision of gaming machines)—
- (a) for the words “Gaming machines”, “gaming machines” and “gaming machine”, wherever they occur, there shall be substituted, respectively, “Amusement machines”, “amusement machines” and “amusement machine”;
- (b) for the word “a”, where it occurs before “gaming machine” in subsection (5)(f), there shall be substituted “an”; and
- (c) for the words “for gaming”, wherever they occur, there shall be substituted “for play”.

*Meaning of “amusement machine”*

- 6 (1) For subsections (1) to (3) of section 25 (meaning of “gaming machine”) there shall be substituted the following subsections—

“(1) A machine is an amusement machine for the purposes of this Act if—

- (a) the machine is constructed or adapted for the playing of any game (whether a game of chance, a game of skill or a game of chance and skill combined);
- (b) the game is one played by means of the machine (whether automatically or by the operation of the machine by the player or players);
- (c) a player pays to play the game (except where he has an opportunity to play without payment as a result of having previously played successfully) either by inserting a coin or token into the machine or in some other way;
- (d) the machine automatically—
  - (i) applies some or all of the rules of the game or displays or records scores in the game; and
  - (ii) determines when a player who has paid to play a game by means of the machine can no longer play without paying again;

and

- (e) the machine is a gaming machine, a video machine or a pinball machine.

(1A) A machine constructed or adapted for the playing of a game is a gaming machine for the purposes of this Act if—

- (a) it is a prize machine;
- (b) the game which is played by means of the machine is a game of chance, a game of chance and skill combined or a pretended game of chance or of chance and skill combined; and
- (c) the outcome of the game is determined by the chances inherent in the action of the machine, whether or not provision is made for manipulation of the machine by a player;

and for the purposes of this subsection a game in which the elements of chance can be overcome by skill shall be treated as a game of chance and skill combined if there is an element of chance in the game that cannot be overcome except by superlative skill.

(1B) A machine constructed or adapted for the playing of a game is a video machine for the purposes of this Act if—

- (a) a micro-processor is used to control some or all of the machine’s functions; and
- (b) the playing of the game involves information or images being communicated or displayed to the player or players by means of any description of screen, other than one consisting only in a blank surface onto which light is projected.

(1C) For the purposes of this Act an amusement machine is a prize machine unless it is constructed or adapted so that a person playing it once and successfully either receives nothing or receives only—

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- (a) an opportunity, afforded by the automatic action of the machine, to play again (once or more often) without paying, or
  - (b) a prize, determined by the automatic action of the machine and consisting in either—
    - (i) money of an amount not exceeding the sum payable to play the machine once, or
    - (ii) a token which is, or two or more tokens which in the aggregate are, exchangeable for money of an amount not exceeding that sum.”
- (2) In subsection (4) of that section (machines playable by more than one person), for “a gaming machine” there shall be substituted “a machine of any description”.
- (3) For subsections (5) to (9) of that section there shall be substituted the following subsections—
  - “(5) For the purposes of sections 21 to 24 above a machine (the actual machine) in relation to which the number determined in accordance with subsection (5A) below is more than one shall be treated (instead of as one machine) as if it were a number of machines (accountable machines) equal to the number so determined.
  - (5A) That number is—
    - (a) except where paragraph (b) below applies, the number of individual playing positions provided on the machine for persons to play simultaneously (whether or not while participating in the same game); and
    - (b) where—
      - (i) that machine is a video machine but not a gaming machine, and
      - (ii) the number of such playing positions is more than the number of different screens used for the communication or display of information or images to any person or persons playing a game by means of the machine,

the number of such screens.
  - (6) Subsection (5) above does not apply in the case of any machine which is an excepted machine for the purposes of section 21 above or in the case of a pinball machine.
  - (7) Any question whether the accountable machines are, or are not, machines falling within any of the following descriptions, that is to say—
    - (a) gaming machines,
    - (b) prize machines,
    - (c) small-prize machines, or
    - (d) five-penny machines,

shall be determined according to whether or not the actual machine is a machine of that description, with the accountable machines being taken to be machines of the same description as the actual machine.”

**“25A Power to modify definition of “amusement machine”.**

- (1) The Treasury may by order modify the provisions of section 25 above—
  - (a) by adding to the machines for the time being specified in subsection (1)(e) of that section any description of machines which it appears to them, having regard to the use to which the machines are put, to be appropriate for the protection of the revenue so to add to those machines; or
  - (b) by deleting any description of machines for the time being so specified.
- (2) An order under this section may make such incidental, consequential or transitional provision as the Treasury think fit, including provision modifying section 21 or section 25(5A) above for the purpose of—
  - (a) specifying the circumstances (if any) in which a machine added to section 25(1)(e) above is to be an excepted machine for the purposes of section 21 above; or
  - (b) determining the number which, in the case of a machine so added, is to be taken into account for the purposes of section 25(5) above.”

*Supplementary provisions*

- 8 (1) In section 26 (supplementary provisions)—
- (a) for the words “gaming machine licence duty” in subsection (1) there shall be substituted “amusement machine licence duty”;
  - (b) for the words “a gaming machine” and “gaming machines”, wherever they occur, there shall be substituted, respectively, “an amusement machine” and “amusement machines”; and
  - (c) for the words “for gaming”, wherever they occur, there shall be substituted “for play”.
- (2) In subsection (2) of that section—
- (a) after the definition of “United Kingdom” there shall be inserted the following definitions—

““video machine” has the meaning given by section 25(1B) above;

“prize machine” has the meaning given by section 25(1C) above;”

and
  - (b) after the definition of a “five-penny machine” there shall be inserted the following definition—

““thirty-five-penny machine” means an amusement machine which can only be played by the insertion into the machine of coins of an aggregate denomination not exceeding 35p;”.
- (3) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) References in sections 21 to 25 above and in this section and Schedule 4 to this Act to a game, in relation to any machine, include references to a game in the nature of a quiz or puzzle and to a game which is played solely by way of a pastime or against the machine, as well as one played wholly or partly against one or more contemporaneous or previous players.”

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- 9 (1) In sections 31 and 33(2) (protection of officers and savings for prohibitions of gaming etc.), for the words “gaming machine licences”, in each case, there shall be substituted “amusement machine licences”.
- (2) In section 32(3) (orders subject to affirmative procedure), for “or 14(3)” there shall be substituted “, 14(3) or 25A”.
- (3) In section 33(1) (interpretation), in the definition of “gaming”, the words “(except where it refers to a machine provided for gaming)” shall be omitted.
- 10 In Schedule 3 (bingo duty)—
- (a) in paragraph 5(1)(b), for “a gaming machine licence” there shall be substituted “an amusement machine licence”; and
- (b) in paragraph 6, for “a gaming machine” there shall be substituted “an amusement machine”.
- 11 (1) In Schedule 4 (supplementary provisions in relation to gaming machine licence duty)—
- (a) for the words “gaming machine” and “gaming machines”, wherever they occur, there shall be substituted, respectively, “amusement machine” and “amusement machines”; and
- (b) for the indefinite article, wherever it occurs before an expression amended by paragraph (a) above, there shall be substituted “An” or “an”, as the case may require.
- (2) In paragraph 1(2) of that Schedule (conditions of exemption for charitable entertainments etc.)—
- (a) in paragraph (a), for “of gaming by means of any machine” there shall be substituted “from any amusement machines”; and
- (b) in paragraph (b), for “and any other provided for gaming” there shall be substituted “and any other amusement machines provided”.
- (3) In paragraph 2(2)(c) of that Schedule (conditions of exemption for pleasure fairs), for “and any other provided for gaming” there shall be substituted “and any other amusement machines provided”.
- (4) In paragraph 4 of that Schedule—
- (a) for the words “small-prize machines”, wherever they occur, there shall be substituted “relevant machines”; and
- (b) after sub-paragraph (7) there shall be inserted the following sub-paragraph—
- “(7A) An amusement machine is a relevant machine for the purposes of this paragraph unless it is a gaming machine which is not a small-prize machine.”; and in relation to the winter period beginning with November 1995, sub-paragraph (4) of that paragraph shall have effect as if the references by virtue of this paragraph to an amusement machine licence included references to a gaming machine licence.
- (5) After paragraph 7 of that Schedule there shall be inserted the following paragraph—

*“Payment of duty by instalments*

- 7A (1) The Commissioners may make and publish arrangements setting out the circumstances in which, and the conditions subject to which, a person

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to whom an amusement machine licence is granted for a period of twelve months may, at his request and if the Commissioners think fit, be permitted to pay the duty on that licence by regular instalments during the period of the licence, instead of at the time when it is granted.

- (2) Arrangements under this paragraph shall provide for the amount of each instalment to be such that the aggregate amount of all the instalments to be paid in respect of any licence is an amount equal to 105 per cent. of what would have been the duty on that licence apart from this paragraph.
- (3) Sub-paragraph (4) below applies if a person who has been permitted, in accordance with arrangements under this paragraph, to pay the duty on any amusement machine licence by instalments—
  - (a) fails to pay any instalment at the time when it becomes due in accordance with the arrangements; and
  - (b) does not make good that failure within seven days of being required to do so by notice given by the Commissioners.
- (4) Where this sub-paragraph applies—
  - (a) the licence shall be treated as having ceased to be in force as from the time when the instalment became due;
  - (b) the person to whom the licence was granted shall become liable to any unpaid duty to which he would have been liable under paragraph 11(1C) below if he had surrendered the licence at that time; and
  - (c) any amusement machines found on the premises to which the licence related shall be liable to forfeiture.
- (5) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision of the Commissioners refusing an application for permission to pay duty by instalments in accordance with arrangements under this paragraph as if that decision were a decision of a description specified in Schedule 5 to that Act.”
- (6) In paragraph 11 of that Schedule (surrender), after sub-paragraph (1B) there shall be inserted the following sub-paragraph—
  - “(1C) Where, in a case where duty is being paid in accordance with arrangements made under paragraph 7A above, the amount of duty actually paid on a licence that is surrendered is less than the amount which would have been paid on that licence if the period for which it was granted had been reduced by the number of complete months in that period which have not expired when the licence is surrendered, the difference between those amounts shall be treated as unpaid duty.”
- (7) Paragraph 13 of that Schedule (labelling and marking of machines) shall cease to have effect.
- (8) In paragraph 14 of that Schedule (power to enter premises), for the words “for gaming” there shall be substituted “for play”.
- (9) In paragraph 16 of that Schedule (enforcement), after sub-paragraph (1) there shall be inserted the following sub-paragraph—

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“(1A) This paragraph does not apply to any contravention or failure to comply with arrangements under paragraph 7A above or to any failure or refusal to comply with a requirement made under or for the purposes of any such arrangements.”

(10) In paragraph 17 of that Schedule (warrants etc.)—

- (a) in sub-paragraph (1), for the words “for gaming” there shall be substituted “for play”; and
- (b) in sub-paragraph (2)(a), for the words from “(including” to “by means of it)” there shall be substituted “(including any machine appearing to the officer to be an amusement machine or to be capable of being used as such)”.

*Consequential amendment of the Customs and Excise Management Act 1979*

- 12      In section 102(3)(a) of the Customs and Excise Management Act 1979 (penalty for failure to deliver up a licence), for “a gaming machine licence” there shall be substituted “an amusement machine licence”.