



Finance Act 1997

1997 CHAPTER 16

PART I

EXCISE DUTIES

Gaming duty

10 Gaming duty to replace gaming licence duty

- (1) A gaming licence shall not be required under section 13 of the Betting and Gaming Duties Act 1981 (gaming licence duty) for any gaming on or after 1st October 1997; but a duty of excise (to be known as “gaming duty”) shall be charged in accordance with section 11 below on any premises in the United Kingdom where gaming to which this section applies (“dutiable gaming”) takes place on or after that date.
- (2) Subject to subsections (3) and (4) below, this section applies to gaming by way of any of the following games, that is to say, baccarat, punto banco, big six, blackjack, boule, casino stud poker, chemin de fer, chuck-a-luck, craps, crown and anchor, faro, faro bank, hazard, poker dice, pontoon, French roulette, American roulette, super pan 9, trente et quarante, vingt-et-un, and wheel of fortune.
- (3) This section does not apply to any lawful gaming which is gaming to which any of the following provisions applies and takes place in accordance with the requirements of that provision, that is to say—
 - (a) section 2(2) of the Gaming Act 1968 or Article 55(2) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (private parties);
 - (b) section 6 of that Act (premises licensed for the sale of liquor);
 - (c) section 34 of that Act or Article 108 of that Order (certain gaming machines);
 - (d) section 41 of that Act or Article 126 of that Order (gaming at entertainments not held for private gain);
 - (e) section 15 or 16 of the Lotteries and Amusements Act 1976 or Article 153 or 154 of that Order (amusements with prizes).

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- (4) This section does not apply to any gaming which takes place on premises in respect of which a club or miners' welfare institute is for the time being registered under Part II of the Gaming Act 1968.
- (5) The Treasury may by order made by statutory instrument add to the games mentioned in subsection (2) above if it appears to them, having regard to the character of the game and the circumstances in which it is played, that it is appropriate to do so.
- (6) Any reference in this section, or in an order under subsection (5) above, to a particular game shall be taken to include a reference to any game (by whatever name called) which is essentially similar to that game.

11 Rate of gaming duty

- (1) Gaming duty shall be charged on premises for every accounting period which contains a time when dutiable gaming takes place on those premises.
- (2) Subject to subsection (3) below, the amount of gaming duty which is charged on any premises for any accounting period shall be calculated, in accordance with the following Table, by—
- applying the rates specified in that Table to the parts so specified of the gross gaming yield in that period from the premises; and
 - aggregating the results.

TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £450,000	2½ per cent.
The next £2,250,000	12½ per cent.
The next £2,700,000	25 per cent.
The remainder	33⅓ per cent.

- (3) Where, in an accounting period, unregistered gaming takes place on any premises, the amount of gaming duty which is charged on those premises for that period shall be equal to 33⅓ per cent. of the gross gaming yield in that period from the premises.
- (4) For the purposes of subsection (3) above, unregistered gaming takes place on premises in an accounting period if—
- dutiable gaming takes place on those premises at any time in that period, and
 - at that time those premises are not specified in the entry on the gaming duty register for a person by whom at that time they are notifiable for the purposes of paragraph 6 of Schedule 1 to this Act.
- (5) The Commissioners may by regulations—
- provide for the cases in which dutiable gaming is to be treated as taking place on any premises for part only of an accounting period; and
 - in relation to such cases, provide for the parts of the gross gaming yield specified in the first column of the Table in subsection (2) above to be reduced in relation to those premises for that accounting period in such manner as may be determined in accordance with the regulations.

- (6) Where the Commissioners are satisfied—
- (a) that dutiable gaming is, has been or may be taking place in the course of any accounting period at different premises situated at the same location or in very close proximity to each other, and
 - (b) that the activities carried on at those premises are connected or form part of the same business or are, or are comprised in, connected businesses,
- the Commissioners may direct that for the purposes of gaming duty the different premises are to be treated as different parts of the same premises.
- (7) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision of the Commissioners to make or vary a direction under subsection (6) above as if that decision were a decision of a description specified in Schedule 5 to that Act.
- (8) For the purposes of this section the gross gaming yield from any premises in any accounting period shall consist of the aggregate of—
- (a) the gaming receipts for that period from those premises; and
 - (b) where a provider of the premises (or a person acting on his behalf) is banker in relation to any dutiable gaming taking place on those premises in that period, the banker's profits for that period from that gaming.
- (9) For the purposes of subsection (8) above the gaming receipts for an accounting period from any premises are the receipts in that period from charges made in connection with any dutiable gaming which has taken place on the premises other than—
- (a) so much of any charge as represents value added tax, and
 - (b) any charge the payment of which confers no more than an entitlement to admission to the premises.
- (10) In subsection (8) above the reference to the banker's profits from any gaming is a reference to the amount (if any) by which the value specified in paragraph (a) below exceeds the value specified in paragraph (b) below, that is to say—
- (a) the value, in money or money's worth, of the stakes staked with the banker in any such gaming; and
 - (b) the value, in money or money's worth, of the winnings paid by the banker to those taking part in such gaming otherwise than on behalf of a provider of the premises.
- (11) The Treasury may by order made by statutory instrument amend subsections (8) to (10) above.

12 Liability to pay gaming duty

- (1) The liability to pay the gaming duty charged on any premises for any accounting period shall fall jointly and severally on—
- (a) every person who is a provider of the premises at a time in that period when dutiable gaming takes place there;
 - (b) every person concerned in the organisation or management of any dutiable gaming taking place on those premises in that period;
 - (c) where any of the persons mentioned in paragraphs (a) and (b) above is a body corporate that is treated as a member of a group for the purposes of Part I of Schedule 1 to this Act, every body corporate that is treated as a member of that group for those purposes; and

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- (d) where any of the persons mentioned in paragraphs (a) to (c) above is a body corporate, every director of that body.
- (2) A person shall for the purposes of this section be conclusively presumed to be a provider of premises at any time if at that time—
- (a) he is registered on the gaming duty register, and
 - (b) those premises are specified in his entry on that register.
- (3) The Commissioners may by regulations make provision—
- (a) for apportioning the liability for any gaming duty charged on any premises for an accounting period between different persons; and
 - (b) for the amount of gaming duty charged on any premises for the different parts of a period for which an apportionment falls to be made to be computed (in accordance with regulations made by virtue of section 11(5)(b) above) as if each part of the period were the only part of the period during which dutiable gaming has taken place on those premises.
- (4) The Commissioners may by regulations impose obligations on any of the persons mentioned in subsection (1) above requiring them to make payments on account of any gaming duty that is likely to be chargeable on any premises.
- (5) Any failure by any person to pay any amount of gaming duty due from him—
- (a) shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount that has not been paid; and
 - (b) shall also attract daily penalties.
- (6) Where, in accordance with any regulations under subsection (4) above, any amount has become payable on account of gaming duty by any person, that amount shall be deemed—
- (a) for the purposes of section 12 of the Finance Act 1994 (assessments to excise duty), to be an amount which has become due from that person in respect of gaming duty;
 - (b) for the purposes of section 116 of the Customs and Excise Management Act 1979 (time and place etc. for payment of excise duty), to be an amount of gaming duty that has become payable; and
 - (c) for the purposes of subsection (5) above, sections 51 and 52 below and section 137(1) of the Customs and Excise Management Act 1979 (recovery of duty), to be an amount of gaming duty due from that person;
- and an amount paid on account of gaming duty shall be deemed for the purposes of section 137A of the Customs and Excise Management Act 1979 (recovery of overpaid duty) to be an amount paid by way of that duty.

13 Supplemental provisions relating to gaming duty

- (1) Schedule 1 to this Act (which makes supplemental provision with respect to gaming duty) shall have effect.
- (2) Schedule 2 to this Act (which amends the Customs and Excise Management Act 1979 and contains other amendments) shall have effect.

14 Subordinate legislation relating to gaming duty

- (1) Any power conferred on the Commissioners by section 11 or 12 above or Schedule 1 to this Act to make regulations—
 - (a) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and
 - (b) shall include power to make different provision for different cases.
- (2) A statutory instrument containing an order under section 10(5) or 11(11) above—
 - (a) shall be laid before the House of Commons after being made; and
 - (b) shall cease to have effect (without prejudice to anything previously done under the order or to the making of a new order) at the end of the period of 28 days after the day on which it was made unless it has been approved, before the end of that period, by a resolution of that House.
- (3) In reckoning the period of 28 days mentioned in subsection (2)(b) above, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

15 Interpretation of gaming duty provisions

- (1) This section shall have effect for the purposes of construing the gaming duty provisions of this Act, that is to say, sections 10 to 14 above, this section and Schedule 1 to this Act.
- (2) The gaming duty provisions of this Act shall be construed as one with the Customs and Excise Management Act 1979.
- (3) In the gaming duty provisions of this Act—
 - “accounting period” means, subject to the provisions of Schedule 1 to this Act, a period of six months beginning with 1st April or 1st October;
 - “dutiable gaming” means gaming to which section 10 above applies;
 - “gaming” means gaming within the meaning of the Gaming Act 1968 or the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;
 - “the gaming duty register” means the register maintained under paragraph 1 of Schedule 1 to this Act;
 - “premises” includes any place and any means of transport and shall be construed subject to section 11(6) above;
 - “provider”, in relation to any premises where gaming takes place, means any person having a right to control the admission of persons to those premises, whether or not he has a right to control the admission of persons to the gaming.
- (4) For the avoidance of doubt it is hereby declared that the imposition or payment of gaming duty does not make lawful any gaming which is otherwise unlawful.