



# Finance Act 2009

## 2009 CHAPTER 10

### PART 8

#### MISCELLANEOUS

##### *Gambling*

#### **113 VAT exemption for gaming participation fees**

- (1) Group 4 of Schedule 9 to VATA 1994 (exemptions: betting, gaming and lotteries) is amended as follows.
- (2) In Note (1), omit paragraph (b) (granting of right to play game of chance not exempted unless within Note (5)).
- (3) Omit Notes (5) to (11).
- (4) The Value Added Tax (Betting, Gaming and Lotteries) Order 2007 (S.I. 2007/2163) is revoked.
- (5) Omit—
  - (a) in BGDA 1981, sections 19(3)(b) and 26E(2), and
  - (b) in FA 1997, section 11(9)(a).
- (6) The amendments made by this section are treated as having come into force on 27 April 2009.

#### **114 Gaming duty**

- (1) FA 1997 is amended as follows.
- (2) Section 10 (gaming duty) is amended as follows.
- (3) For subsection (2) substitute—

“(2) Subject as follows, this section applies to—

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- (a) casino games, and
  - (b) equal chance gaming.”
- (4) In subsection (3)(e), after “Article” insert “ 77, ”.
- (5) After subsection (3A) insert—
- “(3AA) This section does not apply to the playing of a game in respect of which bingo duty or lottery duty is chargeable or would be chargeable but for an express exception.”
- (6) In subsection (3C)(a), after “in” insert “ organising or ”.
- (7) For subsection (4) substitute—
- “(4) This section does not apply—
- (a) in Great Britain, to the playing of a game where the provision of facilities for its playing falls within section 269 of the Gambling Act 2005 (equal chance gaming at members' or commercial clubs and miners' welfare institutes), or
  - (b) in Northern Ireland, to the playing of a game to which Article 128 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (certain clubs) applies.”
- (8) In subsection (5), for “add to the games mentioned in subsection (2) above” substitute “ provide that any specified game is or is not to be a casino game or equal chance gaming for the purposes of this section ”.
- (9) In subsection (6), for “this section, or in an order under subsection (5) above,” substitute “ an order under subsection (5) above ”.
- (10) Section 14 (subordinate legislation) is amended as follows.
- (11) In subsection (2), for “or 11(11) above” substitute “ providing that any game is to be a casino game or equal chance gaming or any order under section 11(11) ”.
- (12) Insert at the end—
- “(4) A statutory instrument containing an order under section 10(5) that does not provide for any game to be a casino game or equal chance gaming is subject to annulment in pursuance of a resolution of the House of Commons.”
- (13) Section 15(3) (interpretation) is amended as follows.
- (14) After the definition of “accounting period” insert—
- ““casino games” means games of chance which are not equal chance gaming (but subject to any order under section 10(5));”.
- (15) After the definition of “dutiabale gaming” insert—
- ““equal chance gaming”—
- (a) in Great Britain, means gaming which does not involve playing or staking against a bank (however described, and whether or not controlled or administered by a player) and in which the chances are equally favourable to all participants, and

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- (b) in Northern Ireland, means gaming in respect of which none of the conditions specified in Article 55 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 is met, (but subject to any order under section 10(5));”.
- (16) In consequence of the preceding provisions, omit—
- (a) in FA 2002, section 11, and
  - (b) in FA 2007, in Schedule 25, paragraph 17(4).
- (17) The amendments made by this section are to be treated as having come into force on 27 April 2009.
- (18) But those amendments do not give rise to a duty under paragraph 6(3)(a) of Schedule 1 to FA 1997 (requirement to notify premises) before 25 May 2009.

## **115 Remote bingo etc**

- (1) BGDA 1981 is amended as follows.
- (2) In section 17 (bingo duty), after subsection (2) insert—
- “(2A) Bingo duty is not charged on the playing of bingo which is not licensed bingo if remote gaming duty is charged on the provision of facilities for playing it.”
- (3) In section 26H (remote gaming duty: exemptions), after subsection (2) insert—
- “(2A) Subsection (2) does not prevent remote gaming duty being charged in respect of the provision of facilities for the playing of bingo which is not licensed bingo (as to the meaning of which terms see section 20C).”
- (4) The amendments made by this section have effect in relation to games of bingo that begin to be played on or after 1 July 2009.

## **116 Meaning of “gaming machine” and “gaming”**

- (1) BGDA 1981 is amended as follows.
- (2) Section 25 (meaning of “amusement machine”) is amended as follows.
- (3) For subsection (1A) substitute—
- “(1A) In this Act “gaming machine” means a machine which is designed or adapted for use by individuals for gambling (whether or not it can also be used for other purposes).
- (1B) But a machine is not a gaming machine to the extent that—
- (a) it is designed or adapted for use to bet on future real events,
  - (b) it is designed or adapted for the playing of bingo and bingo duty is, or but for paragraphs 1 to 5 of Schedule 3 would be, charged under section 17 on the playing of the bingo, or
  - (c) it is designed or adapted for the playing of a real game of chance and the playing of the game is dutiable gaming for the purposes of section 10 of the Finance Act 1997, or would be dutiable gaming but for subsections (3) and (4) of that section.”
- (4) In subsection (1C), for “constructed” substitute “designed”.

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(5) Insert at the end—

“(5) For the purposes of this section—

(a) a reference to gambling is to—

- (i) gaming, or
- (ii) betting,

(b) “machine” has the same meaning as in the Gambling Act 2005 (see section 235(3)(a)),

(c) a reference to a machine being designed or adapted for a purpose includes a reference to a machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose,

(d) a reference to a machine being adapted includes a reference to computer software being installed on it,

(e) “real” has the meaning given by section 353(1) of the Gambling Act 2005,

(f) “game of chance” has the meaning given by section 6(2) of that Act, and

(g) “bingo” includes any version of that game, whatever name it is called.

(6) The Treasury may by order amend this section.”

(6) In section 33 (interpretation)—

(a) in subsection (1), in the definition of “gaming”, omit “within the meaning of Group 4 of Schedule 9 to the Value Added Tax Act 1994”, and

(b) after that subsection insert—

“(1A) In the definition of “gaming” in subsection (1)—

(a) “game of chance” has the meaning given by section 6(2) of the Gambling Act 2005,

(b) “playing a game of chance” is to be read in accordance with section 6(3) of that Act, and

(c) “prize” does not include the opportunity to play the game again.”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 54 para. 9B9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#) (Sch. 54 para. 9B is amended before it comes into force by [2016 c. 24, Sch. 1 para. 66\(5\)](#))
- Sch. 54 para. 12A12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#) (Sch. 9 para. 10 is amended before it comes into force by [2017 c. 32, Sch. 4 para. 182](#))
- Sch. 55 para. 6(3A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(2\)\(a\)](#)
- Sch. 55 para. 6(4A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(3\)\(a\)](#)
- Sch. 55 para. 17(4)(ba) inserted by [2015 c. 11 Sch. 20 para. 19](#)
- Sch. 56 para. 3(1)(d) omitted by [2021 c. 26 Sch. 27 para. 40\(4\)\(c\)](#)