



Finance Act 2014

2014 CHAPTER 26

PART 3

GENERAL BETTING DUTY, POOL BETTING DUTY AND REMOTE GAMING DUTY

CHAPTER 4

GENERAL

Administration

163 Administration

- (1) The Commissioners are responsible for the collection and management of general betting duty, pool betting duty and remote gaming duty.
- (2) General betting duty, pool betting duty and remote gaming duty are to be accounted for by such persons, and accounted for and paid at such times and in such manner, as may be required by or under regulations made by the Commissioners.
- (3) The Commissioners may make regulations providing for any matter for which provision appears to them to be necessary for the administration or enforcement of, or for the protection of the revenue from, general betting duty, pool betting duty and remote gaming duty.
- (4) Nothing in sections 164 to 169 affects the generality of the powers conferred by this section.

164 Registration

- (1) The Commissioners must maintain the following registers—

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- (a) a register of persons who, by virtue of being bookmakers, being treated by section 133 as bookmakers or providing facilities for making bets, are (or may become) liable to pay general betting duty,
 - (b) a register of persons who, by virtue of being bookmakers, are (or may become) liable to pay pool betting duty, and
 - (c) a register of persons who, by virtue of entering into arrangements for chargeable persons to participate in remote gaming, are (or may become) liable to pay remote gaming duty.
- (2) A person falling within any paragraph of subsection (1) may not carry on an activity by virtue of which the person falls within that paragraph without being registered in the register maintained under that paragraph.
- (3) The Commissioners may make regulations about registration; in particular, the regulations may include provision about—
- (a) the procedure for applying for registration (including provision requiring applications to be made electronically);
 - (b) the timing of applications (including provision for applications to be made and determined before 1 December 2014);
 - (c) the information to be provided;
 - (d) notification of changes;
 - (e) de-registration;
 - (f) re-registration after a person ceases to be registered.
- (4) The regulations may require a person registered under this section to give notice to the Commissioners before applying for a remote operating licence.
- (5) The regulations may permit the Commissioners to impose conditions or requirements on persons registered under this section.
- (6) The regulations may include provision for the registration of groups of persons; and may provide for the modification of provisions of this Part in their application to groups.
- (7) The modifications may, for example, include a modification ensuring that each member of a group will be jointly and severally liable for the duty payable by any member of the group.

165 Accounting period

- (1) For the purposes of this Part—
- (a) a period of 3 consecutive months is an accounting period, but
 - (b) the Commissioners may by regulations provide for some other period specified in, or determined in accordance with, the regulations to be an accounting period.
- (2) The first day of an accounting period is such day as the Commissioners may direct.
- (3) The Commissioners may agree with a person to make either or both of the following changes for the purposes of that person's liability to general betting duty, pool betting duty or remote gaming duty—
- (a) to treat specified periods (whether longer or shorter than 3 months) as accounting periods;

- (b) to begin accounting periods on days other than those applying by virtue of subsection (2).
- (4) The Commissioners may by direction make transitional arrangements for periods (whether of 3 months or otherwise) to be treated as accounting periods where—
 - (a) a person becomes or ceases to be registered, or
 - (b) an agreement under subsection (3) begins or ends.
- (5) A direction under this section—
 - (a) may apply generally or only to a particular case or class of case, and
 - (b) must be published unless it applies only to a particular case.

166 Returns

- (1) The Commissioners may make regulations requiring returns to be made to the Commissioners in respect of general betting duty, pool betting duty and remote gaming duty.
- (2) The regulations may, in particular, make provision about—
 - (a) liability to make a return,
 - (b) timing,
 - (c) form,
 - (d) content,
 - (e) method of making (including provision requiring returns to be made electronically),
 - (f) declarations,
 - (g) authentication, and
 - (h) when a return is to be treated as made.

167 Payment

- (1) The Commissioners may by regulations make provision about payment of general betting duty, pool betting duty and remote gaming duty.
- (2) The regulations may, in particular, make provision about—
 - (a) timing (including provision requiring payments to be made on account),
 - (b) instalments,
 - (c) methods of payment (including provision requiring payments to be made electronically),
 - (d) when payment is to be treated as made, and
 - (e) the process and effect of assessments by the Commissioners of amounts due.
- (3) Subject to regulations under section 163 and this section, section 12 of FA 1994 (assessment) applies in relation to liability to pay general betting duty, pool betting duty and remote gaming duty.

168 Information and records

The Commissioners may by regulations require the provision to such persons, or display in such manner, of such information or records as the regulations may specify—

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- (a) by persons engaging or proposing to engage in any activity by reason of which they are, or may be or become, liable for general betting duty, pool betting duty or remote gaming duty (or would be or might be or become liable to general betting duty if on-course bets were not excluded), and
- (b) by persons providing facilities for another to engage in such an activity or entering into any transaction in the course of any such activity.

169 Stake funds and gaming prize funds

- (1) The Treasury may by regulations make provision as to the circumstances in which—
 - (a) the stake money on a bet is, or is not, to be treated for the purposes of this Part as assigned to a Chapter 1 stake fund or a Chapter 2 stake fund,
 - (b) gaming payments are, or are not, to be treated for the purposes of this Part as assigned to a gaming prize fund,
 - (c) an amount contained in a Chapter 1 stake fund or a Chapter 2 stake fund is, or is not, to be treated for the purposes of this Part as being used otherwise than to provide winnings, and
 - (d) an amount contained in a gaming prize fund is, or is not, to be treated for the purposes of this Part as being used otherwise than to provide prizes.
- (2) The Commissioners may by notice published by them make provision about Chapter 1 stake funds, Chapter 2 stake funds and gaming prize funds, and such a notice may (in particular) make provision as to how such funds are to be held.

Security and enforcement

170 Security for payment

- (1) The Commissioners may by notice given to a registrable person require the person to give security, or further security, for the payment of any general betting duty, pool betting duty or remote gaming duty for which the person is or may become liable.
- (2) The Commissioners may give such a notice only if they consider—
 - (a) that there is a serious risk that the duty will not be paid, or
 - (b) that the person usually lives in or, if a body corporate, is legally constituted in a country or territory with which the United Kingdom does not have satisfactory arrangements for the enforcement of liabilities.
- (3) The notice must specify—
 - (a) the amount of security or further security to be given, and
 - (b) the manner in which, and the date by which, the security or further security is to be given.
- (4) That date must not be less than 30 days after the date when the notice is given (and must not be before 1 December 2014).
- (5) Any requirement imposed by the notice has no effect at any time when—
 - (a) the registrable person is entitled under Chapter 2 of Part 1 of FA 1994 to require a review of, or to bring an appeal against, the decision to give the notice,
 - (b) an appeal may ordinarily be brought against a decision on such a review or appeal, or

- (c) proceedings on such a review, appeal or further appeal are in progress.
- (6) A person is a “registrable person” for the purposes of this Part if the person—
 - (a) is, or is required to be, registered under section 164, or
 - (b) has applied for registration under that section.

171 Appointment of UK representative

- (1) The Commissioners may by notice given to a registrable person require the person to appoint a United Kingdom representative.
- (2) The representative must be a person approved by the Commissioners for the purposes of this section.
- (3) The Commissioners may give such a notice only if they consider that the registrable person usually lives in or, if a body corporate, is legally constituted in a country or territory with which the United Kingdom does not have satisfactory arrangements for the enforcement of liabilities.
- (4) The notice must specify the date by which the representative must be appointed.
- (5) That date must not be less than 30 days after the date when the notice was given (and must not be before 1 December 2014).
- (6) It is for the registrable person to decide whether the representative is to have responsibility—
 - (a) for making returns in respect of general betting duty, pool betting duty or remote gaming duty on behalf of the registrable person, or
 - (b) for making such returns and for discharging the registrable person’s liability to general betting duty, pool betting duty or remote gaming duty.
- (7) The notice may be combined with a notice under section 170, and in such a case any requirement contained in the notice under that section ceases to have effect if the registrable person appoints a representative with the responsibilities mentioned in subsection (6)(b).
- (8) Any requirement imposed by the notice has no effect at any time when—
 - (a) the registrable person is entitled under Chapter 2 of Part 1 of FA 1994 to require a review of, or to bring an appeal against, the decision to give the notice,
 - (b) an appeal may ordinarily be brought against a decision on such a review or appeal, or
 - (c) proceedings on such a review, appeal or further appeal are in progress.

172 Security and representatives: review and appeal

- (1) A decision to give a notice under section 170(1) or 171(1) is to be treated as a relevant decision for the purposes of sections 15A and 15C to 16 of FA 1994 (customs and excise reviews and appeals) and, accordingly, the notice must include an offer of a review of the decision under section 15A of FA 1994.
- (2) Only the registrable person may bring an appeal under section 16 of FA 1994 as applied by subsection (1).

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- (3) The decision appealed against is to be treated for the purposes of that section as a decision as to an ancillary matter.
- (4) Such amendments to the notice as are necessary to give effect to any decision on a review, appeal or further appeal must be made by whichever of the following is appropriate in the case in question—
 - (a) the Commissioners,
 - (b) the appeal tribunal, and
 - (c) the court which has determined an appeal from the appeal tribunal.
- (5) An appeal under section 16 of FA 1994 as applied by subsection (1) may not be entertained unless any amount of general betting duty, pool betting duty or remote gaming duty (whether or not it is an amount to which the appeal relates) due from the registrable person at the date when the appeal is brought has been paid.
- (6) But an appeal may be entertained despite subsection (5) if, on the application of the registrable person, the Commissioners are satisfied or (the Commissioners not being so satisfied) the appeal tribunal decides that the requirement to pay the duty for which the person is liable would cause the person to suffer hardship.
- (7) Despite sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 (rights of appeal), the decision of the appeal tribunal as to the issue of hardship is final.
- (8) In this section “appeal tribunal” has the same meaning as in Chapter 2 of Part 1 of FA 1994.

173 Offence of failing to provide security or appoint representative

- (1) A person who is, or is required to be, registered under section 164 is guilty of an offence if the person—
 - (a) is required to give security or further security by a notice under section 170 and does not comply with that requirement, or
 - (b) is required to appoint a representative by a notice under section 171 and does not comply with that requirement.
- (2) A person guilty of an offence under this section is liable, on summary conviction, to—
 - (a) in England and Wales, a fine, or
 - (b) in Scotland or Northern Ireland, a fine not exceeding level 5 on the standard scale.
- (3) The reference in subsection (2)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale in relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.

174 Fraudulent evasion

- (1) A person commits an offence if the person is knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of general betting duty, pool betting duty or remote gaming duty.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—

- (a) imprisonment for a term not exceeding 12 months,
 - (b) a fine not exceeding—
 - (i) in England and Wales, £20,000 or, if greater, three times the duty which is unpaid or the payment of which is sought to be avoided, or
 - (ii) in Scotland or Northern Ireland, the statutory maximum or, if greater, three times the duty which is unpaid or the payment of which is sought to be avoided, or
 - (c) both.
- (3) A person guilty of an offence under subsection (1) is liable on conviction on indictment to—
 - (a) imprisonment for a term not exceeding 7 years,
 - (b) a fine, or
 - (c) both.
- (4) The reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months in relation to an offence committed—
 - (a) in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003, or
 - (b) in Northern Ireland.
- (5) Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 does not apply in relation to the offence under subsection (1), but where such an offence is committed before section 85(1) comes into force the reference in subsection (2)(b)(i) to £20,000 is to be read as a reference to the statutory maximum.

175 Penalties under section 9 of FA 1994

- (1) Where general betting duty, pool betting duty or remote gaming duty is payable by a person, the person's failure to pay attracts a penalty under section 9 of FA 1994, which is to be calculated by reference to the amount of duty payable.
- (2) Any such failure to pay as is mentioned in subsection (1) also attracts daily penalties under that section.
- (3) Subsection (4) applies to a contravention of—
 - (a) section 152 or a notice under that section,
 - (b) section 164 or regulations under that section,
 - (c) regulations under section 166,
 - (d) regulations under section 167,
 - (e) regulations under section 168,
 - (f) a notice under section 169, or
 - (g) a notice under section 186.
- (4) Such a contravention—
 - (a) is conduct to which section 9 of FA 1994 applies (penalties), and
 - (b) attracts daily penalties under that section.

176 Interest

- (1) This section applies if an order is made under section 104(3) of FA 2009 appointing a day on which sections 101 to 103 of that Act are to come into force for the purposes of general betting duty, pool betting duty or remote gaming duty.
- (2) Interest charged under section 101 of that Act on an amount of such a duty (or an amount enforceable as if it were such a duty) may be enforced as if it were an amount of such a duty payable by the person liable for the amount on which the interest is charged.

177 Suspension and revocation of remote operating licences

Schedule 27 makes provision about the suspension and revocation of remote operating licences.

Offences and evidence

178 Offences by bodies corporate

Where an offence under this Part is committed by a body corporate, every person who at the date of the commission of the offence is a director, general manager, secretary or other similar officer of the body corporate (or purporting to act in such a capacity) is also guilty of the offence unless—

- (a) the offence is committed without the person's consent or connivance, and
- (b) the person has exercised all such diligence to prevent its commission as the person ought to have exercised, having regard to the nature of the person's functions in that capacity and to all the circumstances.

179 Protection of officers

Where an officer of Revenue and Customs takes any action in pursuance of instructions of the Commissioners given in connection with the enforcement of the enactments relating to general betting duty, pool betting duty or remote gaming duty and, apart from the provisions of this section, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, the officer is not guilty of that offence.

180 Evidence by certificate, etc

- (1) A certificate of the Commissioners—
 - (a) that any notice required by or under this Part to be given to them had or had not been given at any date,
 - (b) that any registration required by or under this Part had or had not been effected at any date,
 - (c) that any return required by or under this Part had not been made at any date, or
 - (d) that any duty shown as due in any return made in pursuance of this Part or in any assessment made under section 12 of FA 1994 had not been paid at any date,

is sufficient evidence of that fact until the contrary is proved.

- (2) A photograph of any document furnished to the Commissioners for the purposes of this Part and certified by them to be such a photograph is admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under subsection (1) or (2) is to be treated as being such a certificate until the contrary is proved.

181 Facilities capable of being used in United Kingdom: burden of proof

- (1) This section applies where, in civil proceedings in any court or tribunal, it is necessary to determine whether the facilities used to make a bet or to participate in remote gaming were capable of being used in or from the United Kingdom.
- (2) The burden of proof lies on any person claiming that the facilities were not capable of being so used.

Review and appeal

182 Review and appeal

- (1) The decisions mentioned in subsection (2) are to be treated as if they were listed in subsection (2) of section 13A of FA 1994 (customs and excise decisions: meaning of “relevant decision”) and, accordingly, as if they were relevant decisions for the purposes mentioned in subsection (1) of that section.
- (2) The decisions are—
 - (a) a decision consisting in the giving of a direction under section 153(3),
 - (b) a decision to direct that section 160(2) is not to apply in a specified case,
 - (c) a decision under regulations by virtue of section 164(3), and
 - (d) a decision to refuse an agreement relating to a person’s liability to general betting duty, pool betting duty or remote gaming duty under section 165(3).
- (3) A decision mentioned in subsection (2) is to be treated as an ancillary matter for the purposes of sections 14 to 16 of FA 1994.

Definitions

183 Bet

In this Part “bet” does not include any bet made or stake hazarded in the course of, or incidentally to, any gaming.

184 Pool betting

- (1) For the purposes of this Part, a bet is to be treated as being made by way of pool betting unless it is a bet at fixed odds.
- (2) In particular, bets are to be treated as being made by way of pool betting wherever a number of persons make bets—
 - (a) on terms that the winnings of such of those persons as are winners are to be, or to be a share of, or to be determined by reference to, the stake money paid

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or agreed to be paid by those persons, whether the bets are made by means of a totalisator, or by filling up and returning coupons or other printed or written forms, or in any other way,

- (b) on terms that the winnings of such of those persons as are winners are to be, or are to include, an amount (not determined by reference to the stake money paid or agreed to be paid by those persons) which is divisible in any proportions among such of those persons as are winners, or
 - (c) on the basis that the winners or their winnings are, to any extent, to be at the discretion of the promoter or some other person.
- (3) Where there is or has been issued any advertisement or other publication calculated to encourage in persons making bets of any description with or through a bookmaker a belief that such bets are made on the basis mentioned in subsection (2)(c), then any bets of that description subsequently made with or through the bookmaker are to be treated for the purposes of this section as being made on that basis.

185 Fixed odds

- (1) A bet is at fixed odds for the purposes of this Part only if, when making the bet, each of the persons making it knows or can know the amount the person will win, except in so far as that amount is to depend on—
- (a) the result of the event or events betted on,
 - (b) any such event taking place or producing a result,
 - (c) the numbers taking part in any such event,
 - (d) the starting prices or totalisator odds for any such event, or
 - (e) the time when the person's bet is received by any person with or through whom it is made.
- (2) A bet made with or through a person carrying on a business of receiving or negotiating bets and made in the course of that business is not a bet at fixed odds for the purposes of this Part if the winnings of the person by whom it is made consist or may consist wholly or in part of something other than money.
- (3) In this section—
- “starting prices” means, in relation to any event, the odds ruling at the scene of the event immediately before the start, and
 - “totalisator odds” means the odds paid on bets made—
 - (a) by means of a totalisator, and
 - (b) at the scene of the event to which the bets relate.

186 UK person

- (1) In this Part “UK person” means—
- (a) an individual who usually lives in the United Kingdom, or
 - (b) a body corporate which is legally constituted in the United Kingdom.
- (2) The Treasury may by regulations—
- (a) amend the definition of “UK person” in subsection (1),
 - (b) make provision as to the cases in which a person is, or is not, a UK person for the purposes of this Part, and

- (c) make provision about bets made, and arrangements to participate in remote gaming entered into, by bodies of persons unincorporate.
- (3) The Commissioners may by notice published by them—
 - (a) specify steps that must be taken in order to determine whether a person making a bet or entering into arrangements to participate in remote gaming is a UK person,
 - (b) specify who must take those steps,
 - (c) specify circumstances in which a person making a bet or entering into arrangements to participate in remote gaming is to be treated as a UK person because of a failure to produce sufficient evidence to the contrary, and
 - (d) specify circumstances in which a person making a bet or entering into arrangements to participate in remote gaming is to be treated as not being a UK person on the basis of evidence of a description specified in the notice.

187 On-course betting and excluded betting

- (1) A bet is an on-course bet for the purposes of this Part if it—
 - (a) is made by a person present at a horse or dog race meeting or by a bookmaker,
 - (b) is not made through an agent of an individual making the bet or through an intermediary, and
 - (c) is made—
 - (i) with a bookmaker present at the meeting, or
 - (ii) by means of a totalisator situated in the United Kingdom, using facilities provided at the meeting by or by arrangement with the person operating the totalisator.
- (2) A bet is an excluded bet for the purposes of this Part if—
 - (a) it is not made in or from the United Kingdom, and
 - (b) the facilities used to receive or negotiate the bet or (in the case of pool betting) to conduct the pool betting operations are not capable of being used in or from the United Kingdom.
- (3) The Treasury may by regulations amend subsection (2).

188 Gaming

- (1) In this Part—
 - (a) “gaming” means playing a game of chance for a prize, and
 - (b) “game of chance” has the meaning given by section 6(2) of the Gambling Act 2005.
- (2) For the purposes of subsection (1)—
 - (a) “playing a game of chance” is to be read in accordance with section 6(3) of the Gambling Act 2005, and
 - (b) “prize” does not include the opportunity to play the game again.

189 Other definitions

In this Part—

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“betting facilities” means facilities for receiving or negotiating bets or conducting pool betting operations;

“bookmaker” means a person who—

- (a) carries on the business of receiving or negotiating bets or conducting pool betting operations (whether as principal or agent and whether regularly or not), or
- (b) holds himself or herself out or permits himself or herself to be held out, in the course of a business, as a person within paragraph (a);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“operator”, in relation to bets made by means of a totalisator, means the person who, as principal, operates the totalisator;

“promoter”, in relation to any betting, means the person to whom the persons making the bets look for the payment of their winnings, if any;

“remote operating licence” has the same meaning as in the Gambling Act 2005 (see section 67 of that Act);

“winnings”, in relation to any betting, includes winnings of any kind, and references to amount and to payment in relation to winnings are to be read accordingly.

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Supplementary

191 Amounts not in sterling

- (1) If any amount of stake money, gaming payment, winnings or prize is in a currency or method of payment other than sterling, it is to be treated for the purposes of this Part as being the equivalent amount in sterling.
- (2) The equivalent amount in sterling, in relation to any day, is to be determined by reference to—
 - (a) the London closing exchange rate for the previous day, or
 - (b) if no such rate exists, the rate specified in or determined in accordance with a notice published by the Commissioners.

192 Limited liability partnerships

- (1) This Part applies to limited liability partnerships as it applies to companies.
- (2) In its application to a limited liability partnership, references to a director of a company are references to a member of the limited liability partnership.

193 Effect of imposition of duties

The imposition by this Part of general betting duty, pool betting duty, or remote gaming duty does not make lawful anything which is unlawful apart from this Part.

194 Regulations

- (1) Regulations under this Part—
 - (a) may make provision which applies generally or only for specified cases or purposes,
 - (b) may make different provision for different cases or purposes,
 - (c) may include incidental, consequential, transitional or transitory provision,
 - (d) may confer a discretion on the Commissioners, and
 - (e) may make provision by reference to things specified in a notice published by the Commissioners in accordance with the regulations (and not withdrawn by a subsequent notice).
- (2) Regulations under this Part are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) But the following provisions of this section apply instead of subsection (3) in the case of—
 - (a) regulations under section 161(5) which have the effect of adding to the class of activities in respect of which remote gaming duty is chargeable;
 - (b) regulations under section 169(1) which have the effect of increasing the amount of duty that is chargeable in any case;
 - (c) regulations under section 186(2) which have the effect of adding to the class of persons falling within the definition of “UK person”;
 - (d) regulations under section 187(3).
- (5) In such a case—
 - (a) the statutory instrument containing the regulations must be laid before the House of Commons, and
 - (b) the regulations cease to have effect at the end of the period of 28 days beginning with the day on which the instrument was made unless, before the end of that period, the instrument is approved by a resolution of the House of Commons.
- (6) In reckoning the 28-day period, no account is to be taken of any time during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) the House of Commons is adjourned for more than 4 days.
- (7) If regulations cease to have effect as a result of subsection (5), that does not—
 - (a) affect anything previously done under the regulations, or

- (b) prevent the making of new regulations.

195 Notices

A notice published by the Commissioners under this Part may be revised or replaced by them.

196 Consequential amendments and repeals

Schedule 28 contains consequential amendments and repeals.

197 Transitional and saving provisions

Schedule 29 contains transitional and saving provisions.

198 Commencement and effect

- (1) This Part (except sections 164(2), 173 and 196 and Schedule 28) comes into force on the day on which this Act is passed.
- (2) The following provisions come into force on 1 December 2014—
 - (a) section 164(2),
 - (b) section 173, and
 - (c) paragraphs 1 to 27 and 31 of Schedule 28 (and section 196 so far as relating to those paragraphs).
- (3) Paragraphs 28 to 30 of Schedule 28 (and section 196 so far as relating to those paragraphs) come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (4) An order under subsection (3)—
 - (a) may commence a provision generally or only for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (5) Sections 125 to 182 have effect for the purposes of accounting periods beginning on or after 1 December 2014, and—
 - (a) the charges under sections 127(1), 129(1), 130(1), 135(1) and 144(1) are on bets made on or after that date,
 - (b) the charge under section 141(2) is in respect of bets determined on or after that date, and
 - (c) the charge under section 155(1) is on games of chance that begin to be played on or after that date.