



# Finance Act 1993

## 1993 CHAPTER 34

### PART I

#### CUSTOMS AND EXCISE AND VALUE ADDED TAX

### CHAPTER II

#### LOTTERY DUTY

##### *Administration and enforcement*

#### **28 General.**

- (1) Lottery duty shall be under the care and management of the Commissioners.
- (2) Regulations may provide for any matter for which provision appears to the Commissioners to be necessary or expedient for the administration or enforcement of lottery duty or for the protection of the revenue derived from lottery duty.
- (3) A person who contravenes or does not comply with any regulations under subsection (2) above is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale.

#### **29 Registration of promoters etc.**

- (1) A lottery in respect of which lottery duty is chargeable (or, on the taking of a ticket or chance, will be chargeable) shall not be promoted in the United Kingdom unless the chargeable person is registered with the Commissioners under this section.
- (2) In this section “the chargeable person”, in relation to a lottery, means—
  - (a) subject to paragraph (b) below, the promoter of the lottery;
  - (b) in the case of a lottery of a description specified in regulations under section 27(2) above, the other person referred to in that subsection.

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- (3) Regulations may make provision—
- (a) as to the time at which an application for registration is to be made, as to the form and manner of such an application and as to the information to be contained in or provided with it,
  - (b) as to the requirements that must be satisfied as a condition of a person's registration or continued registration, and
  - (c) as to other requirements that must be observed by a person while he remains registered.
- (4) The requirements imposed by virtue of subsection (3)(b) above may include requirements as to the giving of security or further security (by means of a deposit or otherwise) for any lottery duty that may become due.
- (5) Subject to regulations under subsection (3)(a) and (b) above, the Commissioners—
- (a) shall register any person applying to them for registration who satisfies them that he will be the chargeable person in relation to a lottery that is to be promoted, and
  - (b) shall not remove any person from the register unless it appears to them that no lottery is being or is to be promoted in relation to which he is or will be the chargeable person.
- (6) Where—
- (a) the Commissioners determine that a person should be removed from the register because any requirement imposed by regulations under subsection (3) (b) above is not (or is no longer) satisfied in relation to him, and
  - (b) a lottery in relation to which he is the chargeable person is being promoted at the time they make that determination,
- they shall not remove him from the register until the promotion of that lottery has come to an end.
- (7) If subsection (1) above is contravened in relation to a lottery at any time during its promotion, the chargeable person is guilty of an offence and liable—
- (a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both, or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding two years, or to both.
- (8) A person who contravenes or fails to comply with any requirements imposed by regulations under subsection (3)(c) above is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale.

#### **Commencement Information**

- II** S. 29 wholly in force; s. 29 not in force at Royal Assent, s. 29(2)-(8) in force at 1.12.1993, s. 29 in force at 1.2.1994 insofar as not already in force by S.I. 1993/2842, art. 3.

### **30 Application of revenue trade provisions of CEMA 1979.**

- (1) Section 1(1) of the <sup>MI</sup>Customs and Excise Management Act 1979 (interpretation) shall be amended in accordance with subsections (2) and (3) below.

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- (2) In the definition of “the revenue trade provisions of the customs and excise Acts”—
- (a) the word “and” at the end of paragraph (b) shall be omitted, and
  - (b) at the end there shall be added “; and
  - (d) the provisions of Chapter II of Part I of the Finance Act 1993;”.
- (3) In paragraph (a) of the definition of “revenue trader”—
- (a) the word “or” at the end of sub-paragraph (i) shall be omitted,
  - (b) after sub-paragraph (i) there shall be inserted—
    - “(i) the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable; or”, and
  - (c) in sub-paragraph (ii) after “activities” there shall be inserted “ as are mentioned in sub-paragraph (i) or (ia) above ”.
- (4) In section 117 of the <sup>M2</sup>Customs and Excise Management Act 1979 (execution and distress against revenue traders) after subsection (1) there shall be inserted—
- “(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—
- (a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and
  - (b) “the trade in respect of which the duty is imposed” includes any trade or business carried on by the revenue trader that consists of or includes the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable.”

#### Marginal Citations

M1 1979 c. 2.

M2 1979 c. 2.

### 31 General offences.

- (1) A person who is knowingly concerned—
- (a) in the fraudulent evasion (by him or another person) of lottery duty, or
  - (b) in taking steps with a view to such fraudulent evasion,
- is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above is liable—
- (a) on summary conviction, to a penalty of the statutory maximum or, if greater, treble the amount of the duty evaded or sought to be evaded or to imprisonment for a term not exceeding six months, or to both, or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.
- (3) A person who in connection with lottery duty—
- (a) makes a statement that he knows to be false in a material particular or recklessly makes a statement that is false in a material particular, or

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(b) with intent to deceive, produces or makes use of a book, account, return or other document that is false in a material particular,  
 is guilty of an offence.

(4) A person guilty of an offence under subsection (3) above is liable—

- (a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both, or
- (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding two years, or to both.

### 32 Offences by bodies corporate.

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

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

### 33 Forfeiture.

- (1) Where a person has committed an offence under section 31(1) or (3) above, any goods used in the promotion of, or in any other way related to, a relevant lottery are liable to forfeiture.
- (2) In subsection (1) above “relevant lottery”—
  - (a) in relation to an offence under section 31(1) above, means a lottery in respect of which lottery duty was fraudulently evaded or (as the case may be) in respect of which the fraudulent evasion of lottery duty was sought, and
  - (b) in relation to an offence under section 31(3) above, means a lottery to which the false statement or (as the case may be) false document related.

### 34 Protection of officers etc.

Where a person takes an action in pursuance of instructions of the Commissioners given in connection with the enforcement of this Chapter or of regulations under it and, apart from this section, the person would in taking that action be committing an offence under any enactment relating to lotteries, he shall not be guilty of that offence.

### 35 Evidence by certificate etc.

- (1) A certificate of the Commissioners—
  - (a) that a person was or was not, at any date, registered under section 29 above,
  - (b) that any return required by regulations under this Chapter had not been made at any date, or
  - (c) that any lottery duty shown as due in a return made in pursuance of such regulations or in an estimate made under section 116A of the <sup>M3</sup>Customs and Excise Management Act 1979 had not been paid at any date,
 is sufficient evidence of that fact until the contrary is proved.

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- (2) A photograph of any document furnished to the Commissioners for the purposes of this Chapter 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) above shall be taken to be such a certificate until the contrary is proved.

#### Marginal Citations

**M3** 1979 c. 2.

### 36 Duty a preferential debt in insolvency.

- (1) In section 386(1) of the <sup>M4</sup>Insolvency Act 1986 (preferential debts) after “beer duty” there shall be inserted “, lottery duty”.
- (2) In Schedule 6 to that Act (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

“5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.”

- (3) In Schedule 3 to the <sup>M5</sup>Bankruptcy (Scotland) Act 1985 (list of preferred debts) at the end of paragraph 2 (debts due to Customs and Excise) there shall be added—

“(5) Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.”

- (4) In Article 346(1) of the <sup>M6</sup>Insolvency (Northern Ireland) Order 1989 (preferential debts) after “beer duty” there shall be inserted “, lottery duty”.

- (5) In Schedule 4 to that Order (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

“5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.”

#### Marginal Citations

**M4** 1986 c. 45.

**M5** 1985 c. 66.

**M6** S.I. 1989/2405 (N.I.19).

### 37 Disclosure of information.

- (1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—

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- (a) to the Secretary of State,
  - (b) to the Gaming Board for Great Britain, or
  - (c) to an authorised officer of the Secretary of State or Gaming Board,
- for the purpose of assisting the Secretary of State or Gaming Board (as the case may be) in the performance of duties imposed by or under any enactment in relation to lotteries.
- (2) Notwithstanding any such obligation as is mentioned in subsection (1) above—
- (a) the Secretary of State,
  - (b) the Gaming Board for Great Britain, or
  - (c) an authorised officer of the Secretary of State or Gaming Board,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to lottery duty.
- (3) Information that has been disclosed to a person by virtue of this section shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this section have been made, or
  - (b) for the purpose of any proceedings connected with the operation of any enactment in relation to lotteries or lottery duty.
- (4) References above in this section to the Secretary of State include any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this section.
- (5) The Secretary of State shall notify the Commissioners in writing if he designates a person under subsection (4) above.

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**Changes to legislation:**

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