

EXPLANATORY MEMORANDUM TO
THE REMOTE GAMING DUTY REGULATIONS 2007

2007 No. 2192

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 The instrument provides remote gaming duty's administrative rules.

2.2 The rules are about remote gaming providers being registered by, and making returns and payments to, HM Revenue and Customs (HMRC).

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Remote gaming duty of 15% is chargeable on remote gaming profits as of 1 September 2007.

(The Finance Act 2007 (c. 11) Schedule 1 and S.I. 2007/2172 (C. 82), which amend Part 2 of the Betting and Gaming Duties Act 1981 (c. 63). The new section 26C(1) of that 1981 Act provides the charge to duty.)

4.2 The instrument provides the administrative rules for remote gaming duty, using the powers to do so for the first time.

4.3 Providing facilities for remote gaming in respect of which duty may be chargeable is not permitted without being registered.

(Section 26J(2) of that 1981 Act.)

The instrument provides for registration applications to HMRC, giving at least 14 days notice (a month for overseas providers) and using a standard form.

Status changes after registration must be notified to HMRC within 14 days.

HMRC may de-register those who no longer require registration.

HMRC may require overseas providers to give security for the duty and appoint a United Kingdom duty representative as conditions of their registration.

Corporations under or providing common control may be registered as a group, on application to HMRC.

(Regulations 3 and 4 of the instrument.)

- 4.4 Remote gaming duty is chargeable by reference to quarterly accounting periods. These generally are the three months starting on 1 January, 1 April, 1 July and 1 October.

(Section 26D(1) of that 1981 Act.)

- 4.5 Those registered for the duty must make returns about their relevant activities in each accounting period to HMRC on standard forms no later than 30 days after that period (or earlier, to take account of weekends or public holidays).

They must similarly pay to HMRC the duty charged on their remote gaming profits in that period. The payment must be through established business channels unless otherwise agreed in advance with HMRC.

(Regulations 5 and 6 of the instrument, and section 26I of that 1981 Act.)

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Finance Act 2007 amends the Betting and Gaming Duties Act 1981 to introduce a new duty of excise, remote gaming duty. This duty will be chargeable on the provision of facilities for remote gaming (i.e. gaming by means of remote communication such as internet, interactive TV or telephone). The Government's objective is to ensure that remote gaming is within the scope of gambling taxation when it becomes legal for remote gaming operators to locate in, and be regulated under, UK jurisdiction.

- 7.2 At present it is legal for a UK resident to access and play remote gaming. However it is illegal for providers of remote gaming to locate in the UK, and remote gaming is therefore outside the scope of the UK's gambling tax regime.

- 7.3 The Gambling Act 2005, which comes into effect on 1 September 2007, will make it legal for remote gaming providers to be licensed and regulated in Great Britain (the Act does not apply to Northern Ireland). With effect from the same date anyone holding a British remote operating licence, which authorises the licensee to provide remote gaming, will be required to register with HMRC and account for remote gaming duty on their remote gaming profits. Remote gaming duty will be also be chargeable on the illegal provision of remote gaming in the UK. Any remote gambling activity that is already liable to, or specifically excluded from, one of the other gambling duties will be outside the scope of remote gaming duty.

- 7.4 Remote gaming duty will be a self assessed duty administered by HMRC. The instrument sets out the administrative rules for the duty. The content of these regulations and the draft forms have been discussed with the Remote Gambling

Association to ensure that the administrative procedures and requirements are workable and not unnecessarily burdensome.

- 7.5 HMRC will write to everyone who has applied for a British remote gaming operating licence, providing information on remote gaming duty and the process for registration. Information will also be available on the HMRC website and a public notice will be issued.

8. Impact

8.1 A full Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is negligible.

9. Contact

Alison Gardiner at HM Revenue & Customs Tel: 020 7147 0267 or e-mail: alison.gardiner@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

ATTACHMENT TO EXPLANATORY MEMORANDUM

Edited extracts from Regulatory Impact Assessment for new duty of Excise called Remote Gaming Duty, published March 2007

(The figures in that Assessment remain current.)

Issue and background

The Pre-Budget Report 2005 announced that 'following the Gambling Act's provision for remote gaming licences to be offered in the UK, remote gaming will be brought within the scope of gambling taxation'. The Government's chosen option is to create a new duty of excise known as 'Remote Gaming Duty'.

Budget 2006 built on the 2005 announcement, by explaining that 'the Government has decided to defer detailed announcements on the taxation of remote gaming until the tax regime is implemented in Budget 2007'.

Objective

The main objective of the Government's chosen option is to ensure that remote gaming, a major form of commercial gambling activity, is within the scope of gambling taxation once it becomes legal for a remote gaming operator to locate in, and be regulated under, the jurisdiction of Great Britain.

The Finance Bill 2007 will, therefore, provide for all remote gaming operators to be registered for remote gaming duty if they hold a remote operating licence in Great Britain, authorising the licensee to provide remote gaming - provided that the remote gaming activity is not already liable to one, or specifically excluded from one, of the existing gambling duties. The Finance Bill 2007 will not impose any further conditions other than those necessary to capture the illegal provision of remote gaming in Great Britain and in Northern Ireland¹.

Costs

Those businesses that choose to relocate to the UK will have to register and account for remote gaming duty on their net receipts from remote gaming². They will, therefore, incur an initial cost from registering with HMRC, learning new rules, upgrading software, filling out the application form, staff training etc. Businesses will also experience an ongoing compliance cost of completing quarterly remote gaming duty returns.

The registration form, based on an assumption of 17 data requirements, is estimated to take 45 minutes for firms with 10 or more employees and 40 minutes for firms with less. The returns form, to be completed quarterly and containing 6 data requirements, is thought to take 115 minutes to compile the information and complete the return.

¹ The Gambling Act 2005 applies only to Great Britain and makes no provision for the licensing of remote gaming in Northern Ireland, where gambling is regulated under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.

² Remote gaming operators are located in tax havens and we do not anticipate operators relocating to the UK.

According to the standard cost model,³ which identifies firms by number of employees, completing these forms will have different costs for different sized firms.

Firm Size (no of employees)	Registration Admin Burden	Return Admin Burden⁴	Total Admin Burden (registration and returns)
Nano (0)	£7.93	£129.85	£137.78
Micro (1-9)	£15.75	£129.85	£145.59
Small (10-49)	£15.03	£129.85	£144.87
Medium (50-249)	£14.94	£129.82	£144.75
Large (250 +)	£14.94	£129.82	£144.75

The cost of completing returns forms are higher than the cost of registration, despite containing a lower number of data requirements, due to the nature of the information required. Whilst a registration form may require information on locations and key representatives, a returns form requires more complicated financial data so is assumed to take longer and cost more.'

Enforcement, Sanctions and Monitoring

Businesses must register for, and account for, Remote Gaming Duty themselves. As with other duties of Excise, Remote Gaming Duty will be administered, and enforced, by HM Revenue and Customs. Businesses will make periodic returns for Remote Gaming Duty and there will be a range of penalties and interest charges for when businesses fail to make declarations, make declarations in error, or fail to make them on time. There are also sanctions relating to late or non-payment. These sanctions will be based on those for existing duties of Excise.

Implementation and delivery plan

Once the Gambling Act 2005 comes into force, businesses regulated by the Gambling Commission and providing remote gaming must obtain an operating licence issued by the Gambling Commission. Holding a licence, whether or not the business is based in Great Britain, will mean that the business must register for Remote Gaming Duty.

³ Identifying the sizes of remote gaming firms by the numbers of staff that they employ has limitations given the nature of the industry. However, for the purposes of calculating the administration burdens associated with the completion of registrations and return forms it is still appropriate to distinguish between firms by the number of employees.

⁴ Figures are for one firm over one year.

The primary legislation for Remote Gaming Duty will be contained within the Finance Bill 2007, and will come into force at the same time as the Gambling Act 2005 (expected to be September 2007). Similarly, the secondary law and regulations for Remote Gaming duty will come into force at the same time as the Gambling Act 2005.

There is a plan in place to ensure that HMRC systems will be capable of administering the regime, and HMRC officers will have the necessary training to enforce the regime, in time for the Remote Gaming Duty regime coming into effect. The first returns of duty will not be required until after the end of the first accounting period, expected to be the end of December 2007.

A draft of the forms for registration and for returns will be available shortly. HMRC plan to expose these for comment to ensure that the forms are fit for purpose, are clear, and do not contain requests for unnecessary information.

A review of the compliance costs of this new duty will be conducted 2 years after implementation.