



ONLINE GAMBLING REGULATION ACT 2001
ONLINE GAMBLING DUTY REGULATIONS 2007

Laid before Tynwald

2007

Coming into operation

1st September 2007

In exercise of the powers conferred on the Treasury by section 5(3) of the Online Gambling Regulation Act 2001^(a), and of all other powers enabling it in that behalf, the following Regulations are hereby made:-

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Online Gambling Duty Regulations 2007 and shall come into operation on 1st September 2007.

(2) In these Regulations –

“the Act” means the Online Gambling Regulation Act 2001;

“disaster period”, “disaster recovery provider”, “disaster recovery services” and “overseas operator” have the same meaning as in the Online Gambling (Disaster Recovery) Regulations 2007^(b);

“gross gaming yield” means –

(a) the total amount of all bets or stakes made, and the price of all chances sold, less

(b) the value of all winnings and prizes due,

in the course of any of the types of online gambling specified in regulation 4(1) during the period in question;

“online gambling” has the same meaning as in section 1 of the Act;

“operator” means a person conducting online gambling pursuant to section 1(2) of the Act;

“period” means a calendar month, or such other period not exceeding 5 weeks as may be allowed in writing by the Collector; and

^(a) 2001 c.10. Section 5 has been amended by Schedule 2 to the Gambling (Amendment) Act 2006.

^(b) S.D. No. 272/07.

“retained profit” means that profit accruing to the operator from the players of a game, in the form of commission, entrance fee or otherwise in the course of the types of online gambling specified in regulation 4(2) during the period in question.

Definition of pool betting

2. (1) For the purposes of these Regulations, bets shall be held to be 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 shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons, whether the bets are made by filling up and returning coupons or other printed or written forms, or otherwise howsoever; or
- (b) on terms that the winnings of such of those persons as are winners shall be, or shall 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 amongst such of those persons as are winners; or
- (c) on the basis that the winners or their winnings shall, to any extent, be at the discretion of the promoter or some other person,

and any other bet shall be deemed to be made by way of pool betting unless it is a bet at fixed odds or is made by means of a pari-mutual system involving bets placed on horse or dog racing.

(2) A bet is a bet at fixed odds within the meaning of this regulation only if each of the persons making it knows or can know, at the time he makes it, the amount he will win, except in so far as that amount is to depend on the result of the event or events betted on, or on any such event taking place or producing a result, or on the numbers taking part in any such event, or on the starting prices or totalisator odds for any such event, or on there being totalisator odds on any such event, or on the time when his bet is received by any person with or through whom it is made.

In this paragraph the expression ‘starting prices’ in relation to any event means the odds ruling at the scene of the event immediately before the start.

(3) A bet made with or through a person carrying on a business of receiving or negotiating bets, being a bet made in the course of that business, shall be deemed not to be a bet at fixed odds within the meaning of this regulation if the winnings of the person by whom it is so made consist or may consist in whole or in part of something other than money.

(4) Subject to paragraph (5), where payments are made for the chance of winning any money or money’s worth on terms under which the payers have a power of selection which may (directly or indirectly) determine the winner, then for the purposes of this regulation, those payments shall be treated as bets notwithstanding that the power is not exercised.

(5) In paragraph (4) a ‘bet’ does not include the taking of a ticket or a chance in –

- (a) any lottery which is declared by section 30 or 31 of the Gaming, Betting and Lotteries Act 1988^(c) not to be unlawful; or
- (b) any society lottery (within the meaning of that Act) in the case of which all the conditions specified in section 32(3)(b), (c) and (g), or the conditions mentioned in section 34A(a) and (b), of that Act are observed.

^(c) 1988 c.17.

(6) Where a person carries on the business of receiving or negotiating bets and there is or has been issued in connection with that business any advertisement or other publication calculated to encourage in persons making bets of any description with or through him a belief that the bets are made on the basis mentioned in paragraph (1)(c), then any bets of that description subsequently made with or through him in the course of that business shall be deemed for the purposes of these Regulations to be made on that basis.

(7) In this regulation, '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.

(8) In this regulation, 'bet' does not include any bet made or stake hazarded in the course of, or incidentally to, any gaming.

Rate of online gambling duty

3. (1) For the purposes of section 5(3) of the Act the prescribed proportion of gross gaming yield or retained profit as the case may be is as follows –

- | | | |
|-----|---|------|
| (a) | for gross gaming yield or retained profit not exceeding £20 million per annum | 1.5% |
| (b) | for gross gaming yield or retained profit of more than £20 million per annum, but not exceeding £40 million per annum | 0.5% |
| (c) | for gross gaming yield or retained profit exceeding £40 million per annum | 0.1% |

provided that, in any case, the amount of duty in any period shall be not less than zero.

(2) For the purposes of section 5(3) of the Act the prescribed proportion of gross gaming yield for pool betting is 15%.

Basis of the duty charge

4. (1) For the purposes of section 5(3) of the Act duty shall be charged on the gross gaming yield of any type of gambling which is not specified in paragraph (2).

(2) For the purposes of section 5(3) of the Act duty shall be charged on the retained profit on the following types of gambling –

- (a) prize draws, prize competitions or lotteries;
- (b) poker or other games where individual players play against one another using systems or facilities provided by the operator;
- (c) sponsored pool betting and pari-mutual betting which employs the use of a totalisator, or any form of pool betting;
- (d) a betting exchange;
- (e) where the operator acts as a bet-broker; and
- (f) spread betting.

Payment of duty by connected persons

5. (1) Two or more operators are eligible to be treated as a single entity for the purposes of payment of duty under these Regulations if –

- (a) one of them controls each of the others, or
- (b) one person (whether a body corporate or an individual) controls all of them.

(2) For the purposes of this regulation a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of section 1 of the Companies Act 1974^(d).

(3) For the purposes of this regulation an individual shall be taken to control a body corporate if he, were he a company, would be that body's holding company within the meaning of section 1 of the Companies Act 1974.

Returns

6. (1) Pursuant to section 5(3) of the Act, and subject to paragraph (2), every person liable to pay duty under the Act shall furnish to the Collector a statement in the form in the Schedule to these Regulations for each period, or part thereof, during which dutiable online gambling is conducted.

(2) Where, pursuant to regulation 5, two or more operators are to be treated as a single entity, separate returns are still required to be furnished by each operator.

(3) The statement referred to in paragraph (1) shall be furnished to the Collector not later than the fifteenth day after the last day of the period in which it relates and shall contain full information on all matters for which the statement provides.

(4) Subject to paragraph (5), every person furnishing a statement in pursuance of this regulation shall complete and sign the declaration thereon and, subject to paragraph (6), shall send therewith to the Collector the amount of duty due.

(5) The Collector may authorise in writing upon application by an operator the submission by that operator of the information required on the statement in the Schedule to these Regulations by electronic means, and may impose such conditions as he thinks fit.

(6) Every person from whom duty is due to be sent to the Collector pursuant to paragraph (4) may use an alternative method of payment if permitted to use that method in writing by the Collector.

Relief for losses

7. (1) This regulation applies where the amount of a person's gross gaming yield or retained profit for a period is a negative amount.

(2) That amount shall be carried forward to the following period and, to the extent that it does not exceed it, deducted from the amount of the person's gross gaming yield or retained profit in respect of that period.

- (3) If the amount of the gross gaming yield or retained profit for that following period –
- (a) is not a positive amount, or

^(d) 1974 c.30.

(b) is less than the amount carried forward,

the amount carried forward or, as the case may be, the balance of it shall be treated for the purposes of this regulation as if it were a negative amount of gross gaming yield or retained profit in that period.

Value of winnings and prizes due otherwise than in sterling money

8. (1) For the purposes of section 5(4) of the Act the value of any winnings and prizes due otherwise than in sterling money shall be calculated as follows –

- (a) in the case of money in a currency other than sterling –
 - (i) the value of the winnings or prizes (as the case may be) shall be calculated in the other currency and then converted into equivalent sterling money, and
 - (ii) the rate of exchange for the conversion referred to in paragraph (i) shall be that published by Her Majesty's Revenue and Customs in the rates of exchange for customs and VAT purposes for the month during which the winnings or prizes were won, subject to any amendment to said rate for the week during which the winnings or prizes were won which is published by Her Majesty's Revenue and Customs; or
- (b) in the case of winnings and prizes that are not in any currency, the value of the winnings or prizes (as the case may be) shall be –
 - (i) the sterling money paid by the operator for the goods or services constituting the winnings or prizes; or
 - (ii) where non-sterling money was paid by the operator for the goods or services constituting the winnings or prizes, the sterling money equivalent of such non-sterling money, calculated by converting the non-sterling money into sterling money at the conversion rate for that non-sterling money published by Her Majesty's Revenue and Customs in the rates of exchange for customs and VAT purposes which was applicable on the date the non-sterling money was paid by the operator for the goods or services; or
 - (iii) where no money was paid by the operator for the goods or services constituting the winnings or proceeds, the open market value in sterling of the goods and services constituting the winnings or prizes on the date the winnings or prizes were won.

(2) In this regulation, "open market value" means the amount which would be taken as the value of the winnings or prizes assuming that the goods or services comprising such winnings or prizes were purchased on the date such winnings or prizes (as the case may be) were won for consideration in money as would be payable by a person standing in no such relationship with any person as would affect the consideration.

Exemption from duty for disaster recovery

9. An overseas operator being provided disaster recovery services by a disaster recovery provider under the provisions of the Online Gambling (Disaster Recovery) Regulations 2007, shall not be liable for duty on online gambling conducted during the disaster period.

Revocations

10. The following Orders are hereby revoked –
- (a) Online Gambling Duty Order 2005^(e),
 - (b) Online Gambling Duty (No. 2) Order 2005^(f), and
 - (c) Online Gambling Duty Order 2006^(g).

^(e) S.D. No. 174/05.

^(f) S.D. No. 883/05.

^(g) S.D. No. 746/06.

SCHEDULE

Regulation 6

Online Gambling Duty

DUTY STATEMENT

Online Gambling Duty Duty Statement

For the period from _____ to _____
(These dates must not be altered without the agreement of Customs and Excise)

Name of licensed operator

Period

To reach Customs & Excise no later than

Operator's ref no:

Particulars of gross gaming yield

	Figures in sterling		Official use only
	£	P	
Gross Gaming Yield for period and/or			
Retained Profit for the period			
Total Liability			
Duty Payable			
<p>You must ensure that the completed statement and any duty payable are received no later than the due date by Customs and Excise, PO Box 6, Custom House, Douglas, Isle of Man, IM99 1AG</p>			

	Figures in sterling	
	£	P
Amount of duty due for the period		
Less overpayments or negative amount from previous statement(s)		
Add underpayments arising from previous statement(s)		
Total amount of duty to be paid		
If paying in Euro enter amount here	€	

Declaration by Signatory

I _____ (Full name in BLOCK LETTERS)
 declare that the information given above is complete and correct and includes a full and true account of the gross gaming yield and/or retained profit chargeable with online gambling duty under the Online Gambling Regulation Act 2001 for the period shown on this statement and of the duty due and payable.

Signed: _____

Date: _____ Status: _____

Remittance enclosed/payment made by credit transfer (delete as appropriate)

Note: payment of duty by credit transfer requires the prior permission of Customs and Excise

WARNING

Failure to furnish a statement or pay the duty, making a declaration which is false, or the furnishing of a statement which is false in any material particular are offences, which may involve heavy penalties.

Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are concerned with the rates of online gambling duty payable by any person conducting online gambling as provided for by the Online Gambling Regulation Act 2001 and associated matters.

The Regulations

- (a) consolidate the provisions relating to duty-rates, returns and non-sterling money prizes found in the revoked orders with minor amendments. The amendments include allowing for the submission of return information by electronic means. A new, simplified form of return is also prescribed in the Schedule to the Regulations;
- (b) provide for pools promoters formerly liable to pool betting duty to be liable to online gambling duty at the same rate as would be due if it were pool betting duty;
- (c) give legal effect to a pre-existing extra-statutory concession permitting operators of certain types of game to account for duty on the basis of the profit they retain in the form of payments from players, commission etc, instead of on the basis of gross gaming yield;
- (d) provide that where two or more operators are controlled by the same person they may be treated as a "group" and a single entity for duty purposes. Thus the aggregate of their gross gaming yield or retained profit counts towards determining the rates of duty payable. However, separate return forms will be required from each separate operator;
- (e) allow an operator to carry forward losses to the next accounting period;
- (f) clarify that an overseas operator conducting online gambling using authorised disaster recovery facilities will not be liable to duty on such gambling whilst using the facilities;
- (g) revoke and replace the following orders –
 - (i) the Online Gambling Duty Order 2005^(h),
 - (ii) the Online Gambling Duty (No. 2) Order 2005⁽ⁱ⁾, and
 - (iii) the Online Gambling Duty Order 2006^(j).

^(h) S.D. No. 174/05.

⁽ⁱ⁾ S.D. No. 883/05.

^(j) S.D. No. 746/06.