STATUTORY INSTRUMENTS

2010 No. 1783

EXCISE

The Pool Betting Duty (Application of General Betting Duty Provisions) Regulations 2010

Made - - - -	*9th July 2010*
Laid before the House of Commons	*12th July 2010*
Coming into force - -	*26th September 2010*

The Commissioners for Her Majesty's Revenue and Customs(**a**) make these Regulations exercising their powers in sections 8(3), 8(4), 8B(1)(b) and 8B(2) of and Schedule 1, paragraph 2A(2) to the Betting and Gaming Duties Act 1981(**b**).

The provision made by regulation 2(4) appears to them to be necessary for the administration or enforcement of pool betting duty(**c**).

Citation and commencement

1. These Regulations may be cited as the Pool Betting Duty (Application of General Betting Duty Provisions) Regulations 2010 and come into force on 26th September 2010.

Amendments to the General Betting Duty Regulations 2001: pool betting duty returns, payments, accounting periods

2.—(1) This regulation amends the General Betting Duty Regulations 2001(**d**) as follows.

(2) Renumber regulation 1 as regulation 1(1), and insert as regulation 1(2)—

"(2) Their provision, however, for pool betting duty forming part of regulations 3, 5, 6, 10 and 11 starts having effect on 26th September 2010.".

(3) In regulation 3—

(a) in the meaning for "accounting period", after "Act", insert: "(for general betting duty) or section 8B(1)(a) of the Act(**e**) (for pool betting duty)";

(**a**) The Betting and Gaming Duties Act 1981 (c. 63), section 33(1) says "the Commissioners" in that Act are those of Customs and Excise, but this must be taken as a reference to those for Her Majesty's Revenue and Customs under the Commissioners for Revenue and Customs Act 2005 (c. 11), sections 50(1) and 5(1)(b) (both commenced by S.I. 2005/1126 (C. 51)).

(**b**) 1981 c. 63; sections 8 and 8B were substituted by the Finance Act 2002 (c. 23), Schedule 4, Part 1, paragraph 2; Schedule 1, paragraph 2A was inserted by the Finance Act 2002 (c. 23), Schedule 4, Part 1, paragraph 10(3).

(**c**) Regulation 2(4) is mainly about pool betting duty returns and made under the Betting and Gaming Duties Act 1981 (c. 63), Schedule 1, paragraph 2A(2) which stipulates that the making of such provision depends on it appearing to the Commissioners as necessary for the administration or enforcement of pool betting duty. Paragraph 2A was inserted as mentioned in footnote (b) on this page.

(**d**) S.I. 2001/3088, amended by S.I. 2003/2631, 2004/768.

(**e**) The Betting and Gaming Duties Act 1981 (c. 63), section 8B was substituted as mentioned in footnote (b) on this page.

(b) in the meaning for "bookmaker, before the first use of "includes", insert: "is used in relation to general betting duty only, and";

(c) in the meaning for "duty":

(i) before "means", insert: ", in places where the one in question is not mentioned,";

(ii) after "Act", insert: "and, but only in regulations 5, 6, 10 and 11, pool betting duty charged in accordance with sections 7 to 8C of the Act(**a**)";

(d) in the meaning for "on-course bookmaker", before "means", insert: "is used in relation to general betting duty only, and".

(4) In regulation 5(1)—

(a) after "bookmaker", insert: "and every primary payer";

(b) after "relates", insert: "(for general betting duty), or by the fifteenth day of the calendar month following the calendar month in which the accounting period to which it relates ends(**b**) (for pool betting duty); and in these Regulations "primary payer", as described in section 8(2)(a) of the Act(**c**), is used in relation to pool betting duty only".

(5) In regulation 6(1), after "the end of an accounting period", insert: "(for general betting duty) or the fifteenth day of the calendar month following the calendar month in which an accounting period ends(**d**) (for pool betting duty),".

(6) In regulations 6(1) and 6(3), after "bookmaker", insert: "or primary payer".

(7) In regulation 10(1)—

(a) after "bookmaker", insert: "or qualifying primary payer";

(b) after "months", insert: "(for a qualifying bookmaker), or each comprising three consecutive periods individually meeting the description in section 8B(1)(a) of the Act(**e**) (for a qualifying primary payer),".

(8) In regulation 10(2)—

(a) for "three-month", substitute: "such";

(b) after "first calendar month of that accounting period", insert: "(for general betting duty), or a Sunday immediately following the last Saturday in a calendar month as the first day of that accounting period(**f**) (for pool betting duty)".

(9) In regulation 10(3)—

(a) after "bookmaker", insert: "or primary payer";

(b) after "if", insert: ", in relation to the duty in question".

(10) In regulation 10(6)—

(a) after "A bookmaker", insert: "or primary payer";

(b) after "qualifying bookmaker", insert: "or qualifying primary payer";

(c) after "bets", insert: "(for a bookmaker) or dutiable pool bets(**g**) (for a primary payer)".

(11) In regulation 11(1)—

(a) after "bookmaker's", insert: "or primary payer's";

(**a**) The Betting and Gaming Duties Act 1981 (c. 63), sections 7 to 8C were initially substituted by the Finance Act 2002 (c. 23), Schedule 4, Part 1, paragraph 2. Section 7ZA was inserted later by the Finance Act 2003 (c. 14), section 6(5). Section 7B was amended later by the Finance Act 2004 (c. 12), section 15(4) and Schedule 42, Part 1(2).

(**b**) A pool betting duty "accounting period" ends with the last Saturday in a calendar month, and begins with the Sunday immediately following the previous such Saturday, under the Betting and Gaming Duties Act 1981 (c. 63), section 8B(1)(a). Section 8B was substituted as mentioned in footnote (a) on this page.

(**c**) The Betting and Gaming Duties Act 1981 (c. 63), section 8(2)(a) provides that "the primary payer" is the person on whose net pool betting receipts the duty is charged. Section 8 was substituted as mentioned in footnote (a) on this page.

(**d**) See footnote (b) on this page about the end of a pool betting duty accounting period.

(**e**) See footnote (b) on this page about a pool betting duty accounting period and the Betting and Gaming Duties Act 1981 (c. 63), section 8B(1)(a).

(**f**) See footnote (b) on this page about the beginning of a pool betting duty accounting period.

(**g**) The Betting and Gaming Duties Act 1981 (c. 63), section 7B gives the meaning of "dutiable pool bet". This section was substituted and amended as mentioned in footnote (a) on this page.

(b) after "and", insert: ", in relation to the duty in question,";

(c) after "calendar month", insert: "(for a bookmaker) or period in section 8B(1)(a) of the Act(**a**) (for a primary payer)".

(12) In regulation 11(2)—

(a) after "bookmaker's", insert: "or primary payer's";

(b) for "any three-month", substitute: "any such specified";

(c) after "bookmaker", insert: "or primary payer";

(d) after "bets", insert: "(for a bookmaker) or dutiable pool bets(**b**) (for a primary payer)";

(e) after "calendar month", insert: "(for a bookmaker) or period in section 8B(1)(a) of the Act(**c**) (for a primary payer)";

(f) for "that three-month", substitute: "that specified".

(13) In regulation 11(3), after "bookmaker", insert: "or primary payer".

Amendments to the Betting and Gaming Duties Act 1981: payment of pool betting duty

3.—(1) This paragraph amends the Betting and Gaming Duties Act 1981 as follows—

(a) in section 8(1)(c)(**d**) (payment of pool betting duty), omit: "and any directions under paragraph 3 of Schedule 1 to this Act";

(b) in Schedule 1, omit paragraph 3(**e**) (payment of pool betting duty).

(2) The time for payment of pool betting duty is unaffected by paragraph (1) if it fell before 26th September 2010 pursuant to a direction under Schedule 1, paragraph 3 to that Act(**f**).

Dave Hartnett
Bernadette Kenny

9th July 2010 — Two of the Commissioners for Her Majesty's Revenue and Customs

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(**a**) See footnote (b) on page 2 about a pool betting duty accounting period and the Betting and Gaming Duties Act 1981 (c. 63), section 8B(1)(a).

(**b**) See footnote (g) on page 2 about "dutiable pool bet".

(**c**) See footnote (b) on page 2 about a pool betting duty accounting period and the Betting and Gaming Duties Act 1981 (c.63), section 8B(1)(a) .

(**d**) The Betting and Gaming Duties Act 1981 (c. 63), section 8(1)(c) was substituted as mentioned in footnote (a) on page 2.

(**e**) The Betting and Gaming Duties Act 1981 (c. 63), Schedule 1, paragraph 3 was amended by the Finance Act 2002 (c. 23), Schedule 4, Part 1, paragraph 10(4) and Schedule 40, Part 1(4).

(**f**) The Betting and Gaming Duties Act 1981 (c. 63), Schedule 1, paragraph 3 (amended as mentioned in footnote (e) on this page) provided that pool betting duty had to be paid at such times as the Commissioners may direct (see footnote (a) on page 1 about "the Commissioners"). The Commissioners for HM Revenue & Customs directed in Notice 147 of April 2005 that the duty had to be paid no later than the fifteenth day of the month following the one in which the accounting period ends, and it is these payment days before 26th September 2010 that this provision preserves following the repeal of paragraph 3. Otherwise, the amendments made by regulations 2(5) and 2(6) of this instrument have as an effect that pool betting duty payable for the accounting period ending with 25th September 2010 must be paid no later than 15th October 2010, and this is the same effect as directed under paragraph 3 until its repeal. Similar is true for later accounting periods.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of this instrument amends the General Betting Duty Regulations 2001 (S.I. 2001/3088) so that the existing provisions for general betting duty(**a**) about furnishing returns(**b**), paying the duty(**c**), and changing between monthly and quarterly accounting periods(**d**) are modified to apply to pool betting duty as well. Regulation 3 consequently repeals current provisions about the payment of pool betting duty(**e**).

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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(**a**) The relevant provisions are in regulations 3, 5, 6, 10 and 11 of the General Betting Duty Regulations 2001 (S.I. 2001/3088). Regulation 2 of this instrument makes the amendments; paragraph (4) relates to returns, paragraphs (5) and (6) relate to payments, paragraphs (7) to (13) relate to accounting periods, paragraphs (2) and (3) relate to scope and definitions. Common penalty provisions about returns and payments are in the Betting and Gaming Duties Act 1981 (c. 63), Schedule 1, paragraphs 13(1) and 13(2); these were substituted by the Finance Act 1994 (c. 9), Schedule 4, Part 5, paragraph 62(1); and paragraph 13(1) was later amended by the Finance Act 2002 (c. 23), Schedule 4, Part 1, paragraph 10(12).

(**b**) The return must be furnished to HM Revenue & Customs in a specified or approved form, and by the fifteenth day of the month following the one in which the accounting period ends, under regulation 5 of S.I. 2001/3088 as amended by regulation 2(4) of this instrument.

(**c**) Payment must be made to HM Revenue & Customs in a specified or approved manner, and to the same deadline as the return. Those paying by direct debit must ensure that sufficient funds are in the relevant account. This all follows from regulation 6 of S.I. 2001/3088, as amended by regulations 2(5) and 2(6) of this instrument.

(**d**) Monthly accounting periods are standard for pool betting duty, under the Betting and Gaming Duties Act 1981 (c. 63), section 8B(1)(a). (The substitution of section 8B is mentioned in footnote (a) on page 2.) This can be changed to quarterly periods on giving HM Revenue & Customs 28 days written notice under regulation 10 of S.I. 2001/3088, as amended by regulations 2(7) to 2(10) of this instrument. (Those convicted in the preceding year of a pool betting duty offence under the Betting and Gaming Duties Act 1981 (c. 63), Schedule 1, paragraph 13(3) (amended by the Finance Act 1988 (c. 39), section 12(4) and Schedule 14, Part 1), and those who failed to furnish a pool betting return due in that year, must not give such notice; and neither must those with outstanding pool betting duty if payment is not agreed with HM Revenue & Customs. This follows from regulation 10(3) of S.I. 2001/3088, as amended by regulation 2(9) of this instrument. Such a conviction while on quarterly accounting periods leads back to monthly periods, as does failing to furnish a pool betting duty return on time and as does failing to pay pool betting duty as required without agreement from HM Revenue & Customs. This follows from regulations 11(1) and 11(3) of S.I. 2001/3088, as amended by regulations 2(11) and 2(13) of this instrument.) (Those whose aggregated dutiable pool bets in the preceding year exceed £660,000 do not qualify for quarterly returns. This follows from regulation 10(6) of S.I. 2001/3088, as amended by regulation 2(10) of this instrument. Those on quarterly accounting periods whose aggregated dutiable pool bets in the preceding year exceed £825,000 revert to monthly periods. This follows from regulation 11(2) of S.I. 2001/3088, as amended by regulation 2(12) of this instrument.)

(**e**) These provisions are in the Betting and Gaming Duties Act 1981 (c. 63), section 8(1)(c) and Schedule 1, paragraph 3. Section 8(1)(c) was substituted as mentioned in footnote (a) on page 2. Schedule 1, paragraph 3 was amended as mentioned in footnote (e) on page 3.

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