

**EXPLANATORY NOTES**

**CLAUSE 11: AMUSEMENT MACHINES: USE OF  
CURRENCIES OTHER THAN STERLING**

**SUMMARY**

1. This clause makes provision concerning amusement machines that may be played using foreign currency or that pay prizes in foreign currency. It comes into effect upon Royal Assent.

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**DETAILS OF THE CLAUSE**

2. Subsection (1) deletes the existing definition of 'coin' in subsection (2) of section 26 of the Betting and Gaming Duties Act 1981.

3. Subsection (2) inserts new section 26A into the Betting & Gaming Duties Act 1981.

4. New Section 26A(1) provides for references to sterling to include references to the equivalent amount in other currencies.

5. New Section 26A(2) provides the mechanism for determining that equivalent amount.

6. New Section 26A(3) provides for the determination of the duty payable on an amusement machine licence for an amusement machine to which the new section applies.

7. New Section 26A(4) defines the terms used in the new section.

8. Subsection (3) determines the application of the new section 26A once it has come into effect upon Royal Assent.

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**BACKGROUND**

9. The Government White Paper 'A Safe Bet for Success' proposed a relaxation of the current restrictions on the use of certain payment methods for playing machines. For example, in future as well as using coins and tokens it may be possible to use bank notes. Taken together with developments such as the Euro and increasing tourism, we might

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CLAUSE 11**

anticipate greater use of currencies other than sterling as payment to play machines in the UK.

10. The changes made by this clause will ensure that the provisions dealing with the duty on amusement machine licences can cope with a changing market, and with changes that may be made in the future to the social regulation of amusement machines (particularly gaming machines).

**EXPLANATORY NOTES**

**CLAUSE 12: RESPONSIBILITY FOR UNLICENSED  
AMUSEMENT MACHINES**

**SUMMARY**

1. This clause makes provision reducing the classes of person who are treated as responsible for the provision of unlicensed amusement machines. It comes into effect upon Royal Assent.

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**DETAILS OF THE CLAUSE**

2. Subsection (1) provides for a person who simply issues or exchanges coins or tokens for use in an unlicensed amusement machine to be no longer liable to a civil penalty or to be convicted of a criminal offence for making that machine available for play.

3. Subsection (2) provides (in relation to the grant of default licences, the assessment of duty, and liability to pay that duty), that where an unlicensed amusement machine is provided for play on any premises, a person who simply issues or exchanges coins or tokens for use in that machine, is no longer regarded as responsible for those premises.

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**BACKGROUND**

4. A number of different people may be liable where an unlicensed amusement machine is made available for play. These range from those who own the premises or the machine, to those who are employed to issue or exchange coins or tokens for use in the machine.

5. Clearly those who are employed to issue or exchange coins or tokens for use in the machine usually occupy a very junior position in the organisation providing the machine. If they also happen to be responsible for controlling the actual use of the machine, they are liable by virtue of that fact. Consequently it was decided to remove their liability.

**EXPLANATORY NOTES**

**CLAUSE 13: RATES OF GAMING DUTY**

**SUMMARY**

1. Clause 13 revalorises the duty bands for gaming duty for all accounting periods starting on or after 1 April 2003.

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**DETAILS OF THE CLAUSE**

2. Subsection (1) substitutes a new Table for the existing Table in section 11(2) of the Finance Act 1997 which has the effect of increasing the duty bands for gaming duty. The new Table is:

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £502,500 of gross gaming yield	2 ½ per cent
The next £1,115,500 of gross gaming yield	12 ½ per cent
The next £1,115,500 of gross gaming yield	20 per cent
The next £1,953,000 of gross gaming yield	30 per cent
The remainder	40 per cent

3. Subsection (2) provides for this change to take effect for accounting periods beginning on or after 1 April 2003.

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**BACKGROUND**

4. Gaming duty is charged on any premises in the UK where dutiable gaming take place. Dutiable gaming includes the playing of roulette, baccarat, blackjack, and other games commonly played in UK casinos.

5. Gaming duty is charged on premises in respect of accounting periods of 6 months. The amount of gaming duty is calculated by applying increasing rates to bands of gross gaming yield (ggy) (i.e. gross profits) for that accounting period. For example, duty is paid at a rate of 2 ½ per cent on first £502,500 of ggy, then 12 ½ per cent for the next £1,115,500 of ggy, and so on.

6. The change made by this measure increases the duty bands but makes no changes to the rates. The duty bands have been increased by the rate of inflation as at 31 December 2002, in accordance with a practice agreed with the casino industry in the last Parliament.

7. The changes are revenue neutral.

**EXPLANATORY NOTE**

**CLAUSE 14: VEHICLE EXCISE DUTY - RATES**

**SUMMARY**

1. Clause 14 amends the general rate of vehicle excise duty and the specific rates for private and light goods vehicles, with effect from 1 May 2003.

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**DETAILS OF THE CLAUSE**

2. Subsection (1) of the Clause amends paragraph 1 of Schedule 1 to the Vehicle Excise and Registration Act 1994, setting out a new general rate of duty of £110 for vehicles whose engine capacity does not exceed 1549cc and of £165 for other vehicles.
3. Subsection (2) sets out a new table of rates of duty for light passenger vehicles first registered on or after 1 March 2001, on the basis of their emissions of carbon dioxide (CO<sub>2</sub>), to replace the table at Paragraph 1B of Schedule 1 to the Vehicle Excise and Registration Act 1994. The replacement table includes a new tax band for vehicles whose emissions do not exceed 100 g/km of CO<sub>2</sub>, as well as new rates in the other tax bands.
4. Subsection (3) amends the rates of duty applicable to light goods vehicles first registered on or after 1 March 2001, to £110 for a lower-emission van as defined in Paragraph 1K of Schedule 1 of the Vehicle Excise and Registration Act 1994 and £165 for a van which is not a lower emission van.
5. Subsection (4) provides that this Clause will apply to any licence taken out on or after 17 April 2003 for licences beginning on or after 1 May 2003.

**EXPLANATORY NOTE**

**CLAUSE 15: DISCLOSURE FOR VEHICLE EXCISE DUTY  
EXEMPTIONS: NORTHERN IRELAND**

**SUMMARY**

1. This clause provides for the disclosure by the Northern Ireland administration to DVLA of information relating to entitlement to disability-related exemptions from Vehicle Excise Duty.
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**DETAILS OF THE CLAUSE**

2. This clause amends Section 22ZA of the Vehicle Excise and Registration Act 1994. Section 22ZA allows the transfer of prescribed information between the Secretary of State for Work and Pensions and the Secretary of State for Transport to establish entitlement to exemptions from VED for vehicles used for the purposes of those entitled to certain benefits. This clause provides the Department for Social Development in Northern Ireland responsible for administering those benefits with power to disclose prescribed information relating to that function, on the same basis as in the rest of the United Kingdom.

**EXPLANATORY NOTE**

**CLAUSE 16: VEHICLE EXCISE DUTY AT HIGHER RATE:  
EXCEPTION FOR TRACTIVE UNITS**

**SUMMARY**

1. This clause concerns the circumstances in which articulated goods vehicles are used so as to become liable for taxation at a higher rate of Vehicle Excise Duty. It provides that, once a vehicle licence has been taken out, an articulated lorry is not chargeable to a higher rate if used with a lower number of axles than when licensed provided that, where actual weight rather than plated weight or design weight is used to determine the tax band, the vehicle would not fall within a higher tax band than that within which it fell when licensed.
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**DETAILS OF THE CLAUSE**

2. Subsection (1) of the Clause inserts a new provision (Section 15A) into the Vehicle Excise and Registration Act 1994 (“the Act”). Subsection (1) of the new section provides that, where a licence has been taken out for a tractive unit for an articulated goods vehicle running on a minimum number of axles, duty at a higher rate does not become payable under Section 15 of the Act if a specified condition is satisfied.
3. The condition is that the duty paid when the licence was taken out is equal to or greater than the duty that would have been payable if the revenue weight of the vehicle had been equal to the actual laden weight of the vehicle.
4. Subsection (2) of the Clause repeals Section 16 of the Act, which provides exceptions from the charge at higher rate for tractive units.
5. Subsection (3) of the Clause provides that Section 15A shall be deemed to have come into effect on 9 April 2003

**EXPLANATORY NOTES**

**CLAUSE 17: REQUIREMENT OF EVIDENCE OF SECURITY  
(VAT)**

**SUMMARY**

1. This clause extends the powers that Customs and Excise currently have to require the provision of security where it is considered that a business is associated with other businesses whose pattern of trading poses a real threat to the proper collection of VAT.
2. The new measure is introduced to tackle serious cases of VAT evasion where several businesses act together to manipulate the tax system. The measure enables Customs and Excise to require the deposit of a security from a business involved in a VAT supply chain whose operation places the revenue at risk. The amount required to be deposited will be proportionate to the total tax at risk in the supply chain.
3. This measure comes into force on 10 April 2003.
4. The clause also allows for provision to be made for Customs and Excise to accept evidence other than that contained in documents when considering alternative evidence to support a claim to deduct input tax.
5. This measure will be implemented after the Budget debate.

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**DETAILS OF THE CLAUSE**

6. Subsection 1 announces amendments to the Value Added Tax Act 1994 (“VATA”). The extent of the amendments are described in paragraphs 7- 18 below.
7. Subsection 2 amends section 24 (6) VATA to enable regulations governing the admissibility of evidence to support claims for input tax to include evidence other than that contained in documents.
8. Subsection 3 makes similar provision in paragraph 4 of Schedule 11 VATA in relation to the requirement of security against a VAT repayment.

9. Subsection 3 also amends paragraph 4 to retain the provision for a requirement to give security as a condition of making a VAT credit.
10. Subsection 4 amends paragraph 4 of Schedule 11 to retain the existing security provision and to extend the requirement to third parties.
11. The substituted sub-paragraph 4(3) defines relevant goods or services as those supplied by or to the taxable person.
12. The substituted sub-paragraph 4(4) continues to provide that the amount of the security and the way in which it is deposited is to be determined by Customs and Excise.
13. The substituted paragraph 4(5) preserves the existing requirement in relation to tax representatives.
14. Subsection 5 amends section 72(11) VATA (penalty for failure to provide security) to apply the penalty to the extended measure.
15. Subsection 6 retains the right of appeal against the existing security provision and provides for a right of appeal against the extended measure.
16. Subsection 7 amends section 84 VATA to provide for a tighter safeguard in relation to a security required of a third party. Provision is made such that an appeal shall be allowed if Customs are unable to satisfy the Tribunal that payment of VAT has been or is likely to be evaded. Evasion includes the obtaining of a credit or an excess in a repayment.
17. Subsection 8 deals with commencement.

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### **BACKGROUND**

18. This measure is intended to help tackle serious revenue losses from fraud and evasion in particular Missing Trader Intra-Community VAT fraud – a fraud that cost the UK between £1.7 - £2.75 billion in 2001/02. It is targeted at fraudsters who are distorting and damaging honest competition. The measure is wholly consistent with the Government's fairness and enterprise agendas.

**EXPLANATORY NOTES**

**CLAUSE 18: JOINT AND SEVERAL LIABILITY FOR UNPAID  
VAT OF ANOTHER TRADER**

**SUMMARY**

1. This clause introduces a targeted anti-fraud measure that imposes a joint and several liability for the payment of VAT. This will apply to both the supplier and recipient of certain commodities strictly specified in the legislation. Additional safeguards will ensure that innocent businesses are not unwittingly caught by this measure. It takes effect on 10 April 2003.

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**DETAILS OF THE CLAUSE**

2. Subsection (1) amends Part IV of the Value Added Tax Act 1994 (administration, collection and enforcement) by inserting new section 77A (Joint and several liability of traders in supply chain where tax unpaid) after section 77 of that Act (Assessments: time limits and supplementary assessments). The extent of the amendments is described in paragraphs 3 to 13 below.

3. New subsection 77A(1) restricts the application of section 77A to specified goods. Initially these goods are telephones, parts and accessories, and computer equipment, parts, accessories and software.

4. New subsection 77A(2) provides for a notice to be served on a VAT-registered business where it received a taxable supply of goods specified in subsection 77A(1) and where that business knew or had reasonable grounds to suspect that the VAT on those goods would go unpaid. Where a notice is served it has to specify the amount of unpaid VAT that is required to be paid. It must also state that the recipient of the notice and the business that has not paid the VAT are jointly and severally liable for that VAT.

5. New subsection 77A(3) describes the effect of the notice and provides for the business served with the notice and the business that has not paid the VAT to be jointly and severally liable for that amount of unpaid VAT.

6. New subsection 77A(4) provides for the amount of VAT that is payable. Where a business has not paid its VAT the amount payable is the lesser of the actual amount of VAT charged on the supply of the specified goods, or the amount due as shown on that business' VAT return for the

appropriate accounting period together with any amount of VAT assessed as due for that same period.

7. New subsection 77A(5) provides for unpaid VAT to be subject to the joint and several liability provision even where it is impracticable for Customs to notify an assessment.

8. New subsection 77A(6) provides for a business to be presumed to have reasonable grounds to suspect that VAT would go unpaid if the price the business purchased the goods for was either less than the lowest open market price, or was less than any previous price paid for those goods.

9. New subsection 77A(7) provides for section 77A not to apply if it can be proven that the low price paid for the goods was because of legitimate reasons unconnected with the failure to pay VAT.

10. New subsection 77A(8) provides for Customs to use other means of establishing that a business had reasonable grounds to suspect that VAT would go unpaid. This means that new subsection 77A(6) does not have to be the only test to establish whether there are reasonable grounds to suspect that the VAT would go unpaid.

11. New subsection 77A(9) enables Customs to change, by Treasury Order, the goods described in subsection (1) to include different goods or services.

12. New subsection 77A(10(a)) applies the measure to services as well as goods.

13. New subsection 77A(10)(b) creates a net tax position by restricting the amount of unpaid VAT to an amount that exceeds any refund of VAT due.

14. Subsection (2) refers to section 83 (Appeals) of the Value Added Tax Act 1994 and inserts a new paragraph (ra) after (r). This means that a business receiving a notice under new section 77A(2) will have right of appeal against the joint and several liability.

15. Subsection (3) applies section 77A from 10 April 2003.

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### **BACKGROUND**

16. This measure is intended to help tackle Missing Trader Intra-Community VAT fraud – a fraud that cost the UK between £1.7 - £2.75 billion in 2001/02. It is targeted at fraudsters who are distorting and

damaging honest competition and is wholly consistent with the Government's fairness and enterprise agendas.

17. Guidelines have been published on what reasonable steps businesses can take to establish the legitimacy of their customers and suppliers and thus not be unreasonably affected by this measure.

**EXPLANATORY NOTES**

**CLAUSE 19 AND SCHEDULE 1: FACE VALUE VOUCHERS  
(VAT)**

**SUMMARY**

1. The clause and the Schedules provide for measures to block leakage and avoidance of VAT on the sale of face value vouchers. The change will take effect from 9 April 2003.

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**DETAILS OF THE CLAUSE**

2. Clause 19 introduces Schedule 10A.
3. Paragraph 1 inserts a new section 51B after section 51A in Part 3 of VATA 1994.
4. Paragraph 2 inserts new a Schedule 10A after Schedule 10 VATA 1994. Schedule 10A is set out below.
5. Paragraph 1 sub-paragraph (1) defines the term ‘face value voucher’. The definition of face value voucher is now extended to include electronic versions of face value vouchers and ‘top-up’ cards.
6. Paragraph 1 sub-paragraph (2) defines ‘face value’.
7. Paragraph 2 provides that the supply of a face value voucher is a supply of services. This permits the sale of the voucher to be equated to the underlying supply. This means that if it is known that the voucher has been redeemed for zero-rated goods or services then an intermediate supplier in the sale can make an adjustment to reflect the liability of the final supply.
8. Paragraph 3 has the effect of retaining the current treatment for what are termed credit vouchers where there is no tax loss. Paragraph 3 sub-paragraph (1) defines ‘credit vouchers’. This is a type of face value voucher which is redeemed by someone other than the issuer in circumstances where the issuer undertakes to reimburse the person who redeems the voucher.

9. Paragraph 3 sub-paragraph (2) provides that the consideration for **any** supply of a credit voucher shall be disregarded for VAT purposes, except to the extent that it exceeds the face value of the voucher. The sale of credit vouchers by any intermediate suppliers in the supply chain will also be disregarded for VAT purposes.

10. Paragraph 3 sub-paragraph (3) disapplies subsection (2) if the persons from whom goods or services are obtained by the use of the voucher fail to account for any VAT due on that supply. If such a person does not account for VAT on the full face value then the consideration for the supply of the voucher will not be disregarded. This ensures that VAT is accounted for.

11. Paragraph 4 provides for the treatment of what are termed ‘retailer vouchers’. Sub-paragraph (1) defines a retailer voucher as a voucher issued by a person from whom goods or services may be obtained by the use of the voucher but where, in addition, in cases where goods or services can also be obtained from any other person, the issuer undertakes to reimburse that person.

12. Paragraph 4 sub-paragraph (2) provides that the issuer of a retailer voucher is not liable to account for VAT, except to the extent that it exceeds the face value of the voucher, until it is used to obtain goods or services. This preserves the basic rule of the old Schedule 6 (5) for such face value vouchers.

13. Paragraph 4 sub-paragraph (3) provides that sub-paragraph (2) does not apply if the voucher is used to obtain goods or services from a person other than the retailer and that person fails to account for any VAT due on that supply. This will ensure VAT is accounted for.

14. Paragraph 4 sub-paragraph (4) provides that any supply of a retailer voucher subsequent to its issue shall be treated in the same way as the supply of a voucher to which paragraph 6 applies (that is the supply of the voucher is subject to VAT). This ensures that intermediate suppliers in the supply chain have to account for VAT on the supply of such vouchers.

15. Paragraph 5 provides that the consideration for the supply of postage stamps is disregarded except to the extent that it exceeds the face value of the stamp.. This has the effect of retaining the current VAT-free treatment of postage stamps.

16. Paragraph 6 applies to sales of all other kinds of face value vouchers. It does not apply to sales of credit vouchers, initial sales of retailer vouchers (see paragraph 4(5) and sales of postage stamps. This paragraph covers sales by intermediate suppliers except in the case of credit vouchers and postage stamps.

17. Paragraph 6 sub-paragraph (2) provides that the supply of such a voucher is chargeable at the standard rate of VAT except where sub-paragraphs (3), (4) or (5) applies.

18. Paragraph 6 sub-paragraph (3) provides that where the voucher is one that can **only** be used to obtain non-standard rated goods or services, then the supply of the voucher falls into that non-standard rated category. This will have the effect of ensuring that such a voucher can pass through the supply chain at the non-standard rate. In reality examples of this type of voucher are likely to be limited as vouchers that can be redeemed against non-standard rates goods or services can often also be redeemed against standard rated goods or services.

19. Paragraph 6 sub-paragraph (4) provides that where a voucher is used to obtain goods or services all of which fall within a non-standard rated category, the supply of the voucher falls within that category. This will have the effect of allowing intermediate suppliers in the supply chain to make an adjustment to reflect the liability of the final supply.

20. Paragraph 6 sub-paragraph (5) provides that where a voucher is used to obtain goods or services in a number of different rate categories, the supply of the voucher falls within those different categories and the value of each supply shall be determined on a just and reasonable basis. This will have the effect of allowing intermediate suppliers in the supply chain to make an adjustment to reflect the liability of the final supplies, to be apportioned between the different rate categories.

21. Paragraph 7 provides that where a face value voucher and other goods or services are supplied to the same person in a composite transaction, and the total consideration for the supplies is no different, or not significantly different, from what it would be if the voucher were not supplied, the supply of the voucher shall be treated as being made for no consideration. This is an anti-avoidance provision to prevent businesses from artificially reducing the consideration on goods or services by the issue of a face value voucher which is unlikely to be redeemed.

22. Paragraph 8 provides interpretation for the Schedule. Sub-paragraph (1) refers to where in the Schedule the meaning of ‘credit

voucher', 'face value', 'face value voucher' and 'retailer voucher' can be found.

23. Paragraph 8 sub-paragraph (2) sets out the different rate categories of supplies and those which are non-standard.

24. Paragraph 8 sub-paragraph (3) provides that the Schedule also applies where a voucher is used as part-payment for goods or services.

25. Paragraph 3 of Schedule 10A provides that paragraph 5 of Schedule 6 to the VATA 1994 is omitted. This removes the old face value voucher legislation.

26. Paragraph 4 of Schedule 10A provides that amendments made by the Schedule apply to supplies of face value vouchers issued on or after 9 April 2003.

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### **BACKGROUND**

27. Under the former legislation a tax loss arose when face value vouchers were sold via intermediate suppliers. Budget 2002 announced that – following consultation – the Government would legislate to block loopholes in the VAT treatment of face value vouchers. The new legislation addresses the tax loss whilst meeting some of the concerns raised by business during the consultation.

**EXPLANATORY NOTES**

**CLAUSE 20: VAT AVOIDANCE ON THE SALE OF NEW  
FREEHOLD COMMERCIAL BUILDINGS**

**SUMMARY**

1. This clause introduces a measure to block avoidance schemes on the sale of new commercial freehold buildings. It also blocks avoidance schemes involving the sale of vacant land and the subsequent construction of a commercial building. The changes took effect on Budget day.

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**DETAILS OF THE CLAUSE**

2. Subsection (1) amends section 96 of the Value Added Tax Act 1994 (Other interpretative provisions) by inserting a new subsection 96(10B). The extent of the amendments are described in paragraphs 3 to 5 below.

3. The new subsection 96(10B)(a) provides that where the grant of the freehold in a commercial building is standard rated because the building is less than three years old any subsequent supply arising from that grant will also be standard rated.

4. The new subsection 96(10B)(b) provides that where the grant of the freehold in land is exempt any further supply arising from that grant will also be exempt.

5. Subsection 2 applies the new provisions to any supply made on or after Budget day that arises from the grant of a freehold made on or after Budget day.

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**BACKGROUND**

6. VAT is usually due on the sale of a commercial building at the time of legal completion. In some circumstances the final selling price is not known at that date. A trade facilitation measure was introduced by regulation 84(2) of The Value Added Tax Regulations 1995 which allows VAT to be declared when payment is received rather than at the date of sale. Avoiders contrived to make the price uncertain in order to bring

themselves within the measure. They ensured that the bulk of the consideration was paid after three years when the VAT liability of the building changed from taxable to exempt.

7. The Regulations were amended with effect from 28 November 2002 to block future avoidance schemes.

8. This clause will strengthen the anti-avoidance legislation introduced at PBR and enable the Regulations to be simplified. It provides that the liability of the payments made after three years will continue to be standard rated. It will also block avoidance involving the sale of vacant land and the subsequent construction of a commercial building.