Finance Act 1995

1995 CHAPTER 4

PART I

DUTIES OF EXCISE

Alcoholic liquor duties

1 Low-strength wine, made-wine and cider

(1) The Alcoholic Liquor Duties Act 1979 shall be amended as follows.

(2) In section 1 (the alcoholic liquors dutiable under the Act) in subsections (4) and (5) (definitions of "wine" and "made-wine") after the words "any liquor" there shall in both cases be inserted "which is of a strength exceeding 1.2 per cent and which is".

(3) In section 1(6) (definition of "cider") after the word "strength" there shall be inserted "exceeding 1.2 per cent but".

(4) In section 59(1) (prohibition on rendering wine and made-wine sparkling) for paragraph (b) there shall be substituted the following paragraph—

"(b) is wine or made-wine of a strength exceeding 5.5 per cent.".

(5) Subsections (2) and (4) above—

(a) shall apply in relation to liquor imported into, or produced in, the United Kingdom on or after 1st January 1995, and

(b) as regards any provision about liquor removed to the United Kingdom from the Isle of Man, shall also apply in relation to liquor so removed on or after that date.

(6) Subsection (3) above shall apply in relation to liquor imported into, or made in, the United Kingdom on or after 1st January 1995.

2 Wine and made-wine: rates

(1) For the Table of rates of duty in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.

(2) This section shall be deemed to have come into force on 1st January 1995.

3 Spirits, beer and cider: rates

(1) In section 5 of the Alcoholic Liquor Duties Act 1979 (spirits) for "£19.81" there shall be substituted "£20.60".

(2) In section 36(1) of that Act (beer) for "£10.45" there shall be substituted "£10.82".

(3) In section 62(1) of that Act (cider) for "£22.82" there shall be substituted "£23.78".

(4) This section shall be deemed to have come into force on 1st January 1995.

4 Alcoholic ingredients relief

(1) Subject to the following provisions of this section, where any person proves to the satisfaction of the Commissioners that any dutiable alcoholic liquor on which duty has been paid has been—

(a) used as an ingredient in the production or manufacture of a product falling within subsection (2) below, or

(b) converted into vinegar,

he shall be entitled to obtain from the Commissioners the repayment of the duty paid thereon.

(2) The products falling within this subsection are—

(a) any beverage of an alcoholic strength not exceeding 1.2 per cent.,

(b) chocolates for human consumption which contain alcohol such that 100 kilograms of the chocolates would not contain more than 8.5 litres of alcohol, or

(c) any other food for human consumption which contains alcohol such that 100 kilograms of the food would not contain more than 5 litres of alcohol.

(3) A repayment of duty shall not be made under this section in respect of any liquor except to a person who—

(a) is the person who used the liquor as an ingredient in a product falling within subsection (2) above or, as the case may be, who converted it into vinegar;

(b) carries on a business as a wholesale supplier of products of the applicable description falling within that subsection or, as the case may be, of vinegar;

(c) produced or manufactured the product or vinegar for the purposes of that business;

(d) makes a claim for the repayment in accordance with the following provisions of this section; and

(e) satisfies the Commissioners as to the matters mentioned in paragraphs (a) to (c) above and that the repayment claimed does not relate to any duty which has been repaid or drawn back prior to the making of the claim.

(4) A claim for repayment under this section shall take such form and be made in such manner, and shall contain such particulars, as the Commissioners may direct, either generally or in a particular case.

(5) Except so far as the Commissioners otherwise allow, a person shall not make a claim for a repayment under this section unless—

(a) the claim relates to duty paid on liquor used as an ingredient or, as the case may be, converted into vinegar in the course of a period of three months ending not more than one month before the making of the claim; and

(b) the amount of the repayment which is claimed is not less than £250.

(6) The Commissioners may by order made by statutory instrument increase the amount for the time being specified in subsection (5)(b) above; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of the House of Commons.

(7) There may be remitted by the Commissioners any duty charged either—

(a) on any dutiable alcoholic liquor imported into the United Kingdom at a time when it is contained as an ingredient in any chocolates or food falling within subsection (2)(b) or (c) above; or

(b) on any dutiable alcoholic liquor used as an ingredient in the manufacture or production in an excise warehouse of any such chocolates or food.

(8) This section shall be construed as one with the Alcoholic Liquor Duties Act 1979, and references in this section to chocolates or food do not include references to any beverages.

5 Denatured alcohol

(1) The liquors on which duty is charged under the Alcoholic Liquor Duties Act 1979 shall not include any denatured alcohol; and any duty so charged on liquor which has become denatured alcohol before the requirement to pay the duty takes effect shall be remitted.

(2) In this section—

"denatured alcohol" means any dutiable alcoholic liquor which has been subjected to the process of being mixed in the prescribed manner with a prescribed substance; and

"prescribed" means prescribed by the Commissioners by regulations made by statutory instrument.

(3) The power of the Commissioners to make regulations defining denatured alcohol for the purposes of this section shall include—

(a) power, in prescribing any substance or any manner of mixing a substance with a liquor, to do so by reference to such circumstances or other factors, or to the approval or opinion of such persons (including the authorities of another member State), as they may consider appropriate;

(b) power to make different provision for different cases; and

(c) power to make such supplemental, incidental, consequential and transitional provision as the Commissioners think fit;

and a statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision which—

(a) is made under or for the purposes of any regulations under this section, and

(b) is a decision given to any person as to whether a manner of mixing any substance with any liquor is to be, or to continue to be, approved in his case, or as to the conditions subject to which it is so approved,

as if that decision were a decision specified in Schedule 5 to that Act.

(5) Schedule 2 to this Act (which contains amendments for or in connection with the application to all denatured alcohol of provisions of the Alcoholic Liquor Duties Act 1979 relating to methylated spirits and also makes a consequential amendment of the Finance Act 1994) shall have effect.

(6) This section and Schedule 2 to this Act shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different purposes.

(7) An order under subsection (6) above may make such transitional provisions and savings as appear to the Commissioners to be appropriate in connection with the bringing into force by such an order of any provision for any purposes.

(8) This section shall be construed as one with the Alcoholic Liquor Duties Act 1979.

Hydrocarbon oil duties

6 Rates of duty

(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 for “£0.3314” (duty on light oil) and “£0.2770” (duty on heavy oil) there shall be substituted “£0.3526” and “£0.3044” respectively.

(2) In section 8 of that Act (duty on road fuel gas) the following subsection shall be substituted for subsections (3) to (5)—

“(3) The rate of the duty under this section shall be £0.3314 a kilogram.”

(3) In section 11(1) of that Act (rebate on heavy oil) for “£0.0116” (fuel oil) and “£0.0164” (gas oil) there shall be substituted “£0.0166” and “£0.0214” respectively.

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for “£0.0116” there shall be substituted “£0.0166”.

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 29th November 1994.

7 Rates of duty: further provisions

(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979, as amended by section 6 above, for “£0.3526” (duty on light oil) and “£0.3044” (duty on heavy oil) there shall be substituted “£0.3614” and “£0.3132” respectively.

(2) This section shall be deemed to have come into force on 1st January 1995.

8 Hydrocarbon oil: "road vehicle"

(1) In the definition of "road vehicle" in section 27(1) of the Hydrocarbon Oil Duties Act 1979 (road vehicle not to include vehicle of a kind specified in Schedule 1) for the words "of a kind specified in Schedule 1 to this Act" there shall be substituted "which is an excepted vehicle within the meaning given by Schedule 1 to this Act."

(2) The following Schedule shall be substituted for Schedule 1 to that Act—

"SCHEDULE 1

EXCEPTED VEHICLES

Unlicensed vehicles not used on public roads

1 (1) A vehicle is an excepted vehicle while—
(a) it is not used on a public road, and
(b) no licence under the Vehicle Excise and Registration Act 1994 is in force in respect of it.

(2) A vehicle in respect of which there is current a certificate or document in the form of a licence issued under regulations under section 22(2) of the Vehicle Excise and Registration Act 1994 shall be treated for the purposes of sub-paragraph (1) above as a vehicle in respect of which a licence under that Act is in force.

Tractors

2 (1) A vehicle is an excepted vehicle if it is—
(a) an agricultural tractor, or
(b) an off-road tractor.

(2) In sub-paragraph (1) above "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3) below.

(3) The activities falling within this sub-paragraph are—
(a) cutting verges bordering public roads;
(b) cutting hedges or trees bordering public roads or bordering verges which border public roads.

(4) In sub-paragraph (1) above "off-road tractor" means a tractor which is not an agricultural tractor (within the meaning given by sub-paragraph (2) above) and which is—
(a) designed and constructed primarily for use otherwise than on roads, and
(b) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.

Light agricultural vehicles

3 (1) A vehicle is an excepted vehicle if it is a light agricultural vehicle.

(2) In sub-paragraph (1) above "light agricultural vehicle" means a vehicle which—

(a) has a revenue weight not exceeding 1,000 kilograms,

(b) is designed and constructed so as to seat only the driver,

(c) is designed and constructed primarily for use otherwise than on roads, and

(d) is used solely for purposes relating to agriculture, horticulture or forestry.

(3) In sub-paragraph (2)(a) above "revenue weight" has the meaning given by section 60A of the Vehicle Excise and Registration Act 1994.

Agricultural engines

4 An agricultural engine is an excepted vehicle.

Vehicles used between different parts of land

5 A vehicle is an excepted vehicle if—

(a) it is used only for purposes relating to agriculture, horticulture or forestry,

(b) it is used on public roads only in passing between different areas of land occupied by the same person, and

(c) the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres.

Mowing machines

6 A mowing machine is an excepted vehicle.

Snow clearing vehicles

7 A vehicle is an excepted vehicle when it is—

(a) being used, or

(b) going to or from the place where it is to be or has been used,

for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

Gritters

8 A vehicle is an excepted vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).

Mobile cranes

9 (1) A mobile crane is an excepted vehicle.

(2) In sub-paragraph (1) above "mobile crane" means a vehicle which is designed and constructed as a mobile crane and which—

(a) is used on public roads only as a crane in connection with work carried on at a site in the immediate vicinity or for the purpose of proceeding to and from a place where it is to be or has been used as a crane, and

(b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

Digging machines

10 (1) A digging machine is an excepted vehicle.

(2) In sub-paragraph (1) above "digging machine" means a vehicle which is designed, constructed and used for the purpose of trench digging, or any kind of excavating or shovelling work, and which—

(a) is used on public roads only for that purpose or for the purpose of proceeding to and from the place where it is to be or has been used for that purpose, and

(b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

Works trucks

11 (1) A works truck is an excepted vehicle.

(2) In sub-paragraph (1) above "works truck" means a goods vehicle which is designed for use in private premises and is used on public roads only—

(a) for carrying goods between private premises and a vehicle on a road within one kilometre of those premises,

(b) in passing from one part of private premises to another,

(c) in passing between private premises and other private premises in a case where the premises are within one kilometre of each other, or

(d) in connection with road works at the site of the works or within one kilometre of the site of the works.

(3) In sub-paragraph (2) above "goods vehicle" means a vehicle constructed or adapted for use and used for the conveyance of goods or burden of any description, whether in the course of trade or not.

Road construction vehicles

12 (1) A vehicle is an excepted vehicle if it is—

(a) a road construction vehicle, and

(b) used or kept solely for the conveyance of built-in road construction machinery (with or without articles or material used for the purposes of the machinery).

(2) In sub-paragraph (1) above "road construction vehicle" means a vehicle—

(a) which is constructed or adapted for use for the conveyance of built-in road construction machinery, and

(b) which is not constructed or adapted for the conveyance of any other load except articles and material used for the purposes of such machinery.

(3) In sub-paragraphs (1) and (2) above "built-in road construction machinery", in relation to a vehicle, means road construction machinery built in as part of, or permanently attached to, the vehicle.

(4) In sub-paragraph (3) above "road construction machinery" means a machine or device suitable for use for the construction or repair of roads and used for no purpose other than the construction or repair of roads.

Road rollers

13 A road roller is an excepted vehicle.

Interpretation

14 In this Schedule "public road" means a road which is repairable at the public expense."

(3) This section shall come into force on 1st July 1995.

9 Road fuel gas: old stock

In section 8 of the Hydrocarbon Oil Duties Act 1979 (road fuel gas) subsection (7) (no charge on use of gas if delivered or stocked before 3rd July 1972) shall be omitted.

Tobacco products duty

10 Rates of duty

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

"TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £55.58 per thousand cigarettes.
2. Cigars	£82.56 per kilogram.
3. Hand-rolling tobacco	£85.94 per kilogram.
4. Other smoking tobacco and chewing tobacco	£36.30 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 29th November 1994.

11 Rates of duty: further provisions

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979, as substituted by section 10 above, there shall be substituted—

"TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £57.64 per thousand cigarettes.
2. Cigars	£85.61 per kilogram.
3. Hand-rolling tobacco	£85.94 per kilogram.
4. Other smoking tobacco and chewing tobacco	£37.64 per kilogram."

(2) This section shall be deemed to have come into force on 1st January 1995.

Pool betting duty

12 Pool betting duty

(1) In section 7(1) of the Betting and Gaming Duties Act 1981 (which specifies 37.50 per cent. as the rate of pool betting duty) for "37.50 per cent." there shall be substituted "32.50 per cent."

(2) This section shall apply in relation to any pool betting duty the requirement to pay which takes effect on or after 6th May 1995.

Gaming machine licence duty

13 Rates of duty

(1) In the Betting and Gaming Duties Act 1981 for the Table set out at the end of section 23 (amount of duty) there shall be substituted—

TABLE

(1)	*(2)*	*(3)*
Period (in months) for which licence granted	*Small prize or five-penny machines*	*Other machines*
	£	*£*
1	60	150
2	105	275
3	155	400
4	205	520
5	250	645
6	295	755
7	340	880
8	390	1,005

(1) *Period (in months) for which licence granted*	*(2)* *Small prize or five-penny machines*	*(3)* *Other machines*
	£	*£*
9	435	1,115
10	480	1,235
11	510	1,305
12	535	1,375

(2) This section shall apply in relation to any gaming machine licence for which an application is made on or after 1st December 1994.

14 Extension of duty to amusement machines

(1) Schedule 3 to this Act (which contains amendments for or in connection with the application of the provisions of the Betting and Gaming Duties Act 1981 relating to gaming machine licence duty to amusement machines that are not gaming machines and also makes a consequential amendment of the Customs and Excise Management Act 1979) shall have effect.

(2) Schedule 3 to this Act shall have effect (subject to subsection (3) below) in relation only to the provision of a machine at a time on or after 1st November 1995 and to licences for periods beginning on or after that date and the duty on such licences.

(3) Where a gaming machine licence has been granted before 1st November 1995 for a period ending on or after that date, that licence shall have effect on and after that date, for so long as it remains in force, as an amusement machine licence authorising the provision, in accordance with the licence, of the machines the provision of which was authorised by the licence immediately before that date.

Air passenger duty

15 Rates of duty

(1) Section 30 of the Finance Act 1994 (rate of air passenger duty) shall be deemed to have been enacted with the following modifications.

(2) The following subsection shall be substituted for subsection (2) (£5 if journey ends in member State or territory for whose external relations it is responsible)—

"(2) The rate is £5 if that place is in the area specified in subsection (3) below and in—

(a) the United Kingdom or another EEA State, or

(b) any territory for whose external relations the United Kingdom or another member State is responsible."

(3) The following subsection shall be inserted after subsection (8)—

"(9) In this section "EEA State" means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in

relation to Liechtenstein does not include the State of Liechtenstein; and "EEA Agreement" here means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993."

16 Assessment of interest on duty

(1) In Schedule 6 to the Finance Act 1994 (air passenger duty: administration and enforcement) after paragraph 11 there shall be inserted—

"Assessment of interest

11A (1) Where by virtue of paragraph 7 above duty due from any person for an accounting period carries interest, the Commissioners may assess that person to an amount of interest in accordance with this paragraph.

(2) Notice of the assessment shall be given to the person liable for the interest or a representative of his.

(3) The amount of the interest shall be calculated by reference to a period ending on a date ("the due date") no later than the date of the notice.

(4) The notice shall specify—

(a) the amount of the duty which carries the interest assessed ("the specified duty");

(b) the amount of the interest assessed ("the specified interest");

(c) the due date; and

(d) a date by which that amount is required to be paid ("the payment date").

(5) Sub-paragraphs (6) and (7) below apply where the specified duty or any part of it is unpaid on the date of the notice.

(6) If the unpaid amount or any part of it is paid by the payment date, the payment shall be treated for the purposes of paragraph 7 above as made on the due date.

(7) To the extent that the unpaid amount is not paid by the payment date, an assessment may be made under this paragraph in respect of any interest on the unpaid amount which accrues after the due date.

(8) For the purposes of sub-paragraphs (6) and (7) above, a payment—

(a) which purports to be a payment of the unpaid amount or any part of it, but

(b) which is insufficient to discharge both the liability to pay the unpaid amount and the liability to pay the specified interest,

shall be treated as made in discharge (or partial discharge) of the liability to pay the specified interest before it is treated as discharging to any extent the liability to pay the unpaid amount.

(9) A notice of interest assessed under this paragraph may be combined in one document with notification of an assessment under section 12 of this Act which relates to the specified duty.

(10) A notice which is so combined must comply with the requirements of this paragraph which relate to a notice which is not so combined.

(11) The specified interest shall be recoverable as if it were duty due from the person assessed to that interest.

(12) For the purposes of this paragraph a person is a representative of another if—

(a) he is that other's personal representative;

(b) he is that other's trustee in bankruptcy or is a receiver or liquidator appointed in relation to that other or in relation to any of his property; or

(c) he is a person acting in some other representative capacity in relation to that other."

(2) In Schedule 5 to the 1994 Act (decisions subject to review and appeal) in paragraph 9 (decisions under Chapter IV of Part I of that Act) the word "and" immediately preceding sub-paragraph (d) shall be omitted and after that sub-paragraph there shall be inserted—

"(e) any decision with respect to the amount of any interest specified in an assessment under paragraph 11A of Schedule 6;".

(3) In section 16 of the 1994 Act (appeals to a tribunal) at the beginning of subsection (8) (meaning of "ancillary matter" for the purposes of that section) there shall be inserted "Subject to subsection (9) below" and after that subsection there shall be inserted—

"(9) References in this section to a decision as to an ancillary matter do not include a reference to a decision of a description specified in paragraph 9(e) of Schedule 5 to this Act.

(10) Nothing in this section shall be taken to confer on an appeal tribunal any power to vary an amount of interest specified in an assessment under paragraph 11A of Schedule 6 to this Act except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 7 of that Schedule."

(4) This section shall apply in relation to accounting periods ending on or after 1st January 1995.

17 Preferential debts

In section 386(1) of the Insolvency Act 1986 (categories of preferential debts) and in Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (equivalent provision for Northern Ireland) after "lottery duty" there shall be inserted ", air passenger duty".

Vehicle excise duty

18 Increased rates on 30th November 1994

(1) Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty) shall be amended as follows.

(2) In paragraph 1(b) (rate for vehicle constructed after 1946 and for which no other rate is specified) for "£130" there shall be substituted "£135".

(3) In paragraph 3(1)(a) (rate for hackney carriage with seating capacity under nine) for "£130" there shall be substituted "£135".

(4) In paragraph 10 (trailer supplement)—

(a) in sub-paragraph (2) for "£130" there shall be substituted "£135";

(b) in sub-paragraph (3) for "£360" there shall be substituted "£370".

(5) This section shall apply in relation to licences taken out on or after 30th November 1994.

19 Vehicle excise and registration: other provisions

Schedule 4 to this Act (which contains other provisions relating to vehicle excise and registration) shall have effect.

Recovery of overpaid duty

20 Recovery of overpaid excise duty

(1) In Part X of the Customs and Excise Management Act 1979, after section 137 (recovery of duties, &c.) insert—

"**137A Recovery of overpaid excise duty**

(1) Where a person pays to the Commissioners an amount by way of excise duty which is not due to them, the Commissioners are liable to repay that amount.

(2) The Commissioners shall not be required to make any such repayment unless a claim is made to them in such form, and supported by such documentary evidence, as may be prescribed by them by regulations; and regulations under this subsection may make different provision for different cases.

(3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.

(4) No claim for repayment may be made after the expiry of the period of six years beginning with the date of the payment or, if later, the date on which the claimant (or, where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of his) discovered, or could with reasonable diligence have discovered, that the amount was not due.

(5) Except as provided by this section the Commissioners are not liable to repay an amount paid to them by way of excise duty by reason of the fact that it was not due to them.".

(2) In section 17(5) of the Customs and Excise Management Act 1979, after paragraph (b) (restriction on repayment of sums overpaid in error) insert—

"Paragraph (b) above does not apply to a claim for repayment under section 137A below.".

(3) Section 29 of the Finance Act 1989 (recovery of overpaid excise duty and car tax) shall cease to have effect so far as it relates to excise duty.

(4) In section 14(1) of the Finance Act 1994 (decisions subject to review and appeal), after paragraph (b) insert—

"(bb) any decision of the Commissioners on a claim under section 137A of the Customs and Excise Management Act 1979 for repayment of excise duty;".

(5) The provisions of this section have effect in relation to payments made on or after such date as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.