

*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### <sup>F1F1</sup>SCHEDULES 1, 2

#### Textual Amendments

**F1** Schs. 1, 2 repealed by Finance Act 1982 (c. 39, SIF 40:1), s. 157(6), **Sch. 22 Pt. I**

.....  
**F1**

### <sup>F2F2</sup>SCHEDULES 3, 4

#### Textual Amendments

**F2** Schs. 3, 4 repealed by Finance Act 1982 (c. 39, SIF 40:1), s. 157(6), **Sch. 22 Pt. II**

.....  
**F2**

### <sup>F3F3</sup>SCHEDULE 5

#### Textual Amendments

**F3** Sch. 5 repealed by Betting and Gaming Duties Act 1981 (c. 63, SIF 12:2), s. 34(2), **Sch. 7**

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**F3**

### <sup>X1</sup>SCHEDULE 6

Section 10(1)

#### IMPORT PROCEDURES: AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

#### Editorial Information

**X1** The text of Sch. 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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### *Entry of goods on importation*

- 1 (1) Section 37 shall be amended as follows.
- (2) In subsection (1) for the words “and containing such particulars” there shall be substituted the words “, containing such particulars and accompanied by such documents”.
- (3) In subsection (3)(a) after the words “for home use” there shall be inserted the words “or for free circulation”.
- (4) Subsection (5)(a) shall be omitted.
- (5) For subsections (6) and (7) there shall be substituted—
- “(6) Except with the permission of the Commissioners no entry shall be delivered before the goods have been presented at the proper office of customs and excise.
- (7) Where the Commissioners permit an entry to be delivered before presentation of the goods, the goods must be presented at the proper office of customs and excise within such time as the Commissioners may allow; and if the goods are not so presented the entry shall be treated as not having been delivered.
- (8) Goods shall be treated as presented at the proper office of customs and excise if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the arrival of the goods at that office or at such other place as may be specified by directions given by the Commissioners.
- (9) Acceptance of an entry by the proper officer shall be signified in such manner as the Commissioners may direct.”

### *Acceptance of incomplete entry*

- 2 For section 38 (entry by bill of sight) there shall be substituted—

**“38 Acceptance of incomplete entry.**

- (1) The proper officer may, if he thinks fit, accept of an entry which does not in every respect comply with section 37 above.
- (2) Where an entry is accepted under this section the importer shall, within such time as the Commissioners may allow, deliver to the proper officer such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the proper officer so permits, deliver to him a substituted entry complying in all respects with section 37 above.”

### *Examination of goods for purpose of making entry*

- 3 After section 38 there shall be inserted—

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**“38A Examination of goods for purpose of making entry.**

- (1) For the purpose of enabling entry to be made of any goods which are in customs and excise charge the proper officer shall, on the application of the importer, allow the examination of the goods and the taking of samples of the goods.
- (2) Any such application shall be made in such form and manner and contain such particulars as the Commissioners may direct.
- (3) Any examination or taking of samples under this section shall be carried out in accordance with such directions as may be given by the Commissioners and shall be at the risk and at the expense of the importer.”

*Correction and cancellation of entry*

4 After the section inserted by paragraph 3 above there shall be inserted—

**“38B Correction and cancellation of entry.**

- (1) Where goods have been entered for home use or for free circulation the importer may correct any of the particulars contained in an entry of the goods after it has been accepted if—
  - (a) the goods have not been cleared from customs and excise charge;
  - (b) he has not been notified by an officer that the goods are to be examined; and
  - (c) the entry has not been found by an officer to be incorrect.
- (2) The proper officer may permit or require any correction allowed by subsection (1) above to be made by the delivery of a substituted entry.
- (3) An entry of goods may at the request of the importer be cancelled at any time before the goods are cleared from customs and excise charge if the importer proves to the satisfaction of the Commissioners that the entry was delivered by mistake or that the goods cannot be cleared for free circulation.”

*Removal of uncleared goods*

5 In section 40(1) for paragraph (b) there shall be substituted—

- “(b) at the expiration of 21 clear days from the date when they were presented at the proper office of customs and excise they have not been produced for examination and clearance and the failure to produce them is attributable to an act or omission for which the importer is responsible; or”.

*Failure to comply with provisions as to entry*

6 At the end of section 41 there shall be inserted the words “but this section shall not apply to—

- (a) any failure which has been or may be remedied by virtue of section 38B(1); or

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- (b) any failure in respect of an entry which by virtue of section 38(B) (3) has been or may be cancelled at his request.”

*Duties on imported goods*

- 7 (1) Section 43 shall be amended as follows.
- (2) For subsection (2)(a) (time for determining duty where entry is made) there shall be substituted—
- “(a) if entry is made thereof, except where the entry is for warehousing, or if they are declared under section 78 below, shall be those in force with respect to such goods at the time when the entry is accepted or the declaration is made;”.
- (3) ..... F4
- (4) After subsection (5) there shall be inserted—
- “(6) Where entry of goods is made otherwise than for warehousing and there is a reduction in the rate of duty of customs or excise chargeable on the goods between—
- (a) the time mentioned in subsection (2)(a) above; and
- (b) the time when the goods are cleared from customs and excise charge,
- the rate of the duty chargeable on the goods shall if the importer so requests, be that in force at the time mentioned in paragraph (b) above unless clearance of the goods has been delayed by reason of any act or omission for which the importer is responsible.
- (7) Notwithstanding section 6(5) of the European Communities Act 1972 “duty of customs” in subsection (6) above does not include any agricultural levy.
- (8) Where samples are taken of goods under section 38A above and the quantity of the goods covered by the entry which is subsequently delivered does not include the samples the duties of customs and the rates of those duties chargeable on the samples shall be those in force at the time when the application under subsection (1) of that section was made and shall be determined by reference to the particulars contained in the application.
- (9) Where a substituted entry is delivered under section 38(2) or 38B(2) above the entry referred to in subsection (2)(a) above is the original entry.”

**Textual Amendments**

F4 Sch. 6 para. 7(3) repealed by S.I. 1982/1324, reg. 3

*Delivery of imported goods on giving security for duty*

- 8 In section 119(1) after the words “for home use” there shall be inserted the words “ or for free circulation ”.

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### *Restriction on delivery of goods*

- 9 In section 128(1) and (2) (power to restrict delivery of goods chargeable with duty of customs or excise) the words “customs or” shall be, omitted.

## X<sup>2</sup>SCHEDULE 7

Section 10(2).

### EXPORT PROCEDURES

#### **Editorial Information**

- X<sup>2</sup> The text of Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## PART I

### SECTIONS SUBSTITUTED IN CUSTOMS AND EXCISE MANAGEMENT ACT 1979

#### *Entry outwards of goods.*

- 53 (1) Subject to the provisions of this Part of this Act, before any goods other than Community transit goods are exported or shipped as stores for use on a voyage or flight to an eventual destination outside the United Kingdom and the Isle of Man there shall be delivered by the exporter to the proper officer an entry outwards of the goods in such form and manner, containing such particulars and accompanied by such documents as the Commissioners may direct.
- (2) Except with the permission of the Commissioners no entry shall be delivered before the goods have been presented to the proper officer.
- (3) Where the Commissioners permit an entry to be delivered before presentation of the goods, the goods must be presented to the proper officer within such time as the Commissioners may allow; and if the goods are not so presented the entry shall be treated as not having been delivered.
- (4) Goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the presence of the goods at a place designated by him.
- (5) An entry in respect of dutiable or restricted goods shall not be accepted unless security is given to the satisfaction of the Commissioners that the goods will, within such time as the Commissioners think reasonable, be exported and discharged at the destination for which they are entered or which is otherwise specified by the exporter or, in the case of goods for use as stores, that they will be duly so used or otherwise accounted for to the satisfaction of the Commissioners.
- (6) Acceptance of an entry by the proper officer shall be signified in such manner as the Commissioners may direct; and once acceptance of an entry in respect of any goods has been signified, the goods shall not be removed from the place where they were at the time of acceptance without the permission of the proper officer.

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- (7) The Commissioners may relax all or any of the requirements imposed by this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (8) If any dutiable or restricted goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before entry has been delivered and accepted, the goods shall be liable to forfeiture and where the shipping or making waterborne is done with fraudulent intent any person concerned therein with knowledge of that intent shall be guilty of an offence under this subsection and may be detained.
- (9) A person guilty of an offence under subsection (8) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding six months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding two years or to both.
- (10) If any goods which are not dutiable or restricted goods and of which entry is required under this section are exported or shipped for exportation or as stores before entry has been delivered and accepted, the exporter shall be liable on summary conviction to a penalty of £500.
- (11) Any person who removes any goods in contravention of subsection (6) above or contravenes or fails to comply with any requirement imposed under subsection (7) above shall be liable on summary conviction to a penalty of £500.
- (12) If any dutiable or restricted goods are found not to correspond with any entry in respect of them delivered under this section, they shall be liable to forfeiture.

*Acceptance of incomplete entry.*

- 54 (1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 53 above, but he shall not do so in a case in which the goods have not been presented.
- (2) Where an entry is accepted under this section the exporter shall, within such time as the Commissioners may allow, deliver to the proper officer such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the proper officer so permits, deliver to him a substituted entry complying in all respects with section 53 above.
- (3) If any person fails to comply with subsection (2) above he shall be liable on summary conviction to a penalty of £500.

*Correction and cancellation of entry.*

- 55 (1) The exporter may correct any of the particulars contained in an entry of goods under section 53 above after it has been accepted if—
- (a) the appropriate authority has not been given for the removal of the goods; and
  - (b) the exporter has not been notified by an officer that the goods are to be examined; and
  - (c) the entry has not been found by an officer to be incorrect;

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and in paragraph (a) above “the appropriate authority” means—

- (i) in the case of goods which have been presented to the proper officer at a place approved by the Commissioners under section 31(1)(b) above or at a place designated by the proper officer under section 53 above, any authority to remove the goods from the place where they were presented to the proper officer which is required under section 31 above or permission under section 53(6) above, and
  - (ii) in any other case, the authority to load the goods which is required under section 57(4) or section 66 below.
- (2) Particulars in an entry may be corrected after the giving of such authority as is mentioned in subsection (1)(a) above if they relate to a matter which can be established in the absence of the goods.
  - (3) The proper officer may permit or require any correction allowed by subsection (1) above to be made by the delivery of a substituted entry.
  - (4) Subject to subsection (5) below, an entry which has been accepted may be cancelled at the request of the exporter if he delivers to the proper officer all copies of the entry and such other documents delivered to him on or in connection with the entry as the Commissioners may require and shows to the satisfaction of the Commissioners that—
    - (a) the goods are in the United Kingdom and the arrangements for exporting them have been cancelled; and
    - (b) any payment to which he is entitled from the Commissioners or under a Community instrument by virtue of exporting the goods has been repaid or will not be paid.
  - (5) An entry shall not be cancelled under subsection (4) above—
    - (a) in a case where the exporter is informed by an officer that the goods are to be examined, until the examination has taken place; and
    - (b) until the exporter has complied with any requirements imposed by the Commissioners as to the movement of the goods in respect of which the entry was made to such places as they may specify.
  - (6) Where an entry in respect of goods which are not dutiable or restricted goods is cancelled under subsection (4) above, the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents relating to the goods as may be specified in the directions.
  - (7) Any person who contravenes or fails to comply with subsection (6) above shall be liable on summary conviction to a penalty of £500.

*Failure to export.*

- 56
- (1) Where any goods in respect of which an entry has been accepted have not been shipped or exported by land, an officer may by notice given to the exporter require the goods to be exported within such time as is specified in the notice; and if the notice is not complied with the entry shall be treated as cancelled.
  - (2) Where, in the case of any such goods as are mentioned in subsection (1) above which are due to be loaded into a ship or aircraft specified in the entry or by the person having charge of them at the port or customs and excise airport of intended shipment,

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no notice has been served under that subsection and the goods have not been shipped by the time the ship or aircraft departs from the port or airport at which it has been cleared by the proper officer, then—

- (a) the entry shall be treated as cancelled at that time; and
- (b) if the goods are dutiable or restricted goods, they shall be liable to forfeiture unless notice of the failure to export them is given to the proper officer immediately after that time.

(3) Where an entry in respect of dutiable or restricted goods is treated as cancelled by virtue of this section—

- (a) if the exporter would have been entitled to a payment of any sum from the Commissioners or under a Community instrument by virtue of exporting the goods, he shall take such steps as the Commissioners may direct to ensure that the sum is not paid to him or, if it has already been paid, he shall (unless the Commissioners agree to his retaining it) repay it within seven days or such longer period as the Commissioners may allow;
- (b) the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents as may be specified in the directions; and
- (c) if the goods have not been forfeited under subsection (2)(b) above, they shall be warehoused or, if the Commissioners so require, shall be moved to such place as the Commissioners may specify.

(4) Where an entry in respect of goods which are not dutiable or restricted goods is treated as cancelled by virtue of this section, the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents relating to the goods as may be specified in the directions.

(5) Any person who contravenes or fails to comply with subsection (3) above shall be liable on summary conviction to a penalty of £1,000 and the goods shall be liable to forfeiture.

(6) Any person who contravenes or fails to comply with subsection (4) above shall be liable on summary conviction to a penalty of £500.

*Delivery of entry by owner of exporting ship etc.*

57 (1) The Commissioners may direct that any entry required to be delivered under section 53 above in respect of any goods which are to be shipped or exported in a ship or aircraft and the documents which are required to accompany it shall, instead of being delivered by the exporter be delivered by the loader (that is to say the owner of the ship or aircraft or a person appointed by him) and such delivery shall be treated as delivery by the exporter for the purposes of this Part of this Act.

(2) The proper officer shall not accept an entry which is delivered in pursuance of subsection (1) above unless the goods in respect of which the entry is made are under the control of the loader at the time of the delivery.

(3) Directions under this section may impose on the loader requirements as to—

- (a) the place, time and manner in which entries and any documents required by virtue of section 31 above are to be delivered.
- (b) the production to the proper officer of such documents as may be specified in the directions; and



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- (c) the information to be supplied to the proper officer and the form and manner in which the information is to be supplied.
- (4) Directions under this section may also require that the goods in respect of which the entry is to be made shall not be loaded into the ship or aircraft in which they are to be exported without the authority of the proper officer.
- (5) Directions under this section may authorise an officer to relax all or any of the requirements imposed by the directions and, if he does so, to impose substituted requirements.
- (6) If a person without reasonable excuse fails to comply with any requirement imposed on him under this section he shall be liable on summary conviction to a penalty of £500 or in the case of a failure to comply with a requirement imposed by virtue of subsection (4) above to a penalty of £1,000.
- (7) For the purposes of this section a ship subject to charter by demise shall be treated as owned by the charterer.

*Simplified clearance procedure.*

- 58 (1) If the Commissioners think fit so to direct, goods which are not dutiable or restricted goods may be shipped for exportation without entry under section 53 above if—
- (a) the exporter is registered in a register of exporters maintained by the Commissioners for the purposes of this section; and
  - (b) before the goods are shipped the conditions mentioned in subsection (3) below are satisfied.
- (2) The Commissioners may for the purposes of this section—
- (a) enter in a register maintained by them any person applying for registration and appearing to them to be concerned in the exportation of goods and to satisfy such requirements for registration as they may think fit to impose;
  - (b) give directions imposing requirements on registered persons including, in particular, requirements as to the keeping of records and accounts and the giving of access to them;
  - (c) assign to registered persons numbers for use under this section; and
  - (d) suspend or cancel the registration of any person if it appears to them that he has failed to comply with any direction under this section or with section 58B(1) or (2) below or that there is other reasonable cause for suspension or cancellation.
- (3) The conditions referred to in subsection (1) above are—
- (a) that the goods are presented to the proper officer;
  - (b) that the exporter delivers to the proper officer and the proper officer accepts such document relating to the goods as the directions may require bearing an endorsement which contains a number assigned to the exporter under this section; and
  - (c) that the exporter complies with such other requirements as the directions may impose;

and goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the presence of the goods at a place designated by him.

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- (4) The document referred to in subsection (3)(b) above shall be delivered in such manner as the directions may require and acceptance of that document by the proper officer shall be signified in such manner as the Commissioners may direct; and once acceptance of a document relating to any goods has been signified, the goods shall not be removed from the place they were at the time of acceptance without the permission of the proper officer.
- (5) Directions under this section may contain provision enabling the Commissioners to exclude shipments of goods from their operation in such cases as the Commissioners think fit by giving notice to that effect in accordance with the directions.
- (6) The Commissioners may relax any requirement imposed under this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (7) Sections 55 and 57 above and section 58D(3) below shall apply in relation to a document required to be delivered under subsection (3)(b) above as they apply in relation to an entry and section 56 above shall apply in relation to goods in respect of which such a document has been accepted under that subsection as it applies to goods in respect of which an entry has been accepted.

*Local export control.*

- 58A (1) If the Commissioners think fit so to direct, goods may be shipped for exportation or exported by land without entry under section 53 above if—
- (a) the exporter is registered in a register maintained by the Commissioners for the purposes of this section; and
  - (b) the conditions mentioned in subsection (3) below are satisfied.
- (2) The Commissioners may for the purposes of this section—
- (a) maintain a register of exporters whose premises are approved by the Commissioners under section 31 above for the examination of goods intended for export;
  - (b) enter in the register any such persons applying for registration who satisfy such requirements for registration as the Commissioners may think fit to impose;
  - (c) give directions imposing requirements on registered persons including, in particular, requirements as to, the keeping of records and accounts and the giving of access to them;
  - (d) assign to registered persons numbers for use under this section; and
  - (e) suspend or cancel the registration of any person if it appears to them that he has failed to comply with any direction under this section or with section 58B(1) or (2) below or that there is other reasonable cause for suspension or cancellation.
- (3) The conditions referred to in subsection (1) above are—
- (a) that before the goods are removed from the approved premises—
    - (i) the exporter delivers to the proper officer, at such time and place as he may require, a notice of the intention to remove the goods, being a notice in such form and containing such particulars as may be required by the directions; and

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- (ii) on such day as the proper officer may appoint (not being earlier than the day that notice is delivered or later than the day the goods are removed) the exporter enters such particulars of the goods and of such other matters as may be required by the directions in a record maintained by him at such place as the proper officer may require; and
  - (b) that before the goods are shipped, the exporter delivers to the proper officer such document relating to the goods as the directions may require bearing an endorsement which contains a number assigned to the exporter under this section and complies with such other requirements as the directions may impose.
- (4) The directions may impose requirements as to—
  - (a) the manner in which the notice referred to in paragraph (a)(i) of subsection (3) above shall be delivered and the form it should take;
  - (b) the manner and form in which the record referred to in paragraph (a)(ii) of that subsection should be maintained; and
  - (c) the place at which and the manner in which the document referred to in paragraph (b) of that subsection should be delivered;and the conditions mentioned in that subsection shall not be treated as satisfied unless any requirements which are so imposed are complied with.
- (5) The Commissioners may, in addition to any exporter within subsection (2)(a) above, enter in the register any person who applies to them to be registered and satisfies them—
  - (a) that the exporter is a company under the applicant's control; or
  - (b) that the exporter has agreed to the registration of the applicant in addition to the exporter.
- (6) Where in pursuance of subsection (5) above both an exporter and another person are registered—
  - (a) the proper officer shall direct which of them shall do the things mentioned in subsection (3) above and section 58B(1) below; and
  - (b) the registration of both of them may be cancelled or suspended under subsection (2)(e) above if it appears to the Commissioners that either of them has failed as mentioned in that subsection.
- (7) The Commissioners may relax any requirement imposed under this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (8) Section 56 above shall apply in relation to goods in respect of which particulars have been entered in a record under subsection (3)(a) above as it applies in relation to goods in respect of which an entry has been accepted.

*Provisions supplementary to ss. 58 and 58A.*

- 58B (1) Where by virtue of section 58 or 58A above goods have been shipped for exportation or exported by land without entry under section 53 above, the exporter shall deliver to the proper officer a specification of the goods containing, as the Commissioners may direct, either the particulars that would have been required to be contained in the entry or such other particulars as may be so directed.

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- (2) The specification referred to in subsection (1) above may, if the Commissioners permit, be a single specification relating to the goods exported during a particular period and shall be delivered at such place and in such manner and by such time as the Commissioners may allow.
- (3) If any person fails to deliver a specification in accordance with the foregoing provisions of this section or delivers a specification which is incorrect and does not correct it within a period of fourteen days following delivery, he shall be liable on summary conviction to a penalty of £500.
- (4) In connection with any arrangements approved by the Commissioners for recording particulars of exported goods by computer they may relax the requirements of subsections (1) and (2) above by suspending the obligation to deliver the specifications there mentioned on condition that—
  - (a) the particulars which should otherwise be contained in the specifications, or such of those particulars as the Commissioners may specify, are recorded by computer in accordance with the arrangements; and
  - (b) the particulars so recorded are subsequently delivered to the proper officer within such time as the Commissioners may specify;
 but subject to such other conditions as they may impose.
- (5) If any person without reasonable excuse fails to comply with a requirement imposed on him by or under section 58 or 58A above he shall be liable on summary conviction to a penalty of £500.
- (6) If any person for the purpose of enabling goods to be shipped in accordance with either of those sections furnishes any document bearing a number assigned under that section which is not one for the time being assigned to him or to another person who has consented to his furnishing the document bearing that number, he shall be liable on summary conviction to a penalty of £500.
- (7) In sections 58 and 58A above references to a person registered under either of those sections do not include references to a person whose registration is for the time being suspended; and for the purposes of subsection (6) above a person whose registration is for the time being suspended shall be regarded as not having any number assigned to him.

*Pipe-lines and export of ships and aircraft.*

- 58C (1) For the purposes of this Part of this Act goods which are to be exported by means of a pipe-line shall be treated as having been presented to the proper officer when notice of the goods to be exported has been given to the proper officer and accepted by him.
- (2) Notice under subsection (1) above shall be given by such person and in such form and manner and shall contain such particulars as the Commissioners may direct.
  - (3) A ship or aircraft departing from the United Kingdom which—
    - (a) is within the definition of dutiable or restricted goods in section 52 above; or
    - (b) is a ship built, or aircraft manufactured, in the United Kingdom departing for the first time for a voyage or flight to a place outside the United Kingdom for the purpose of its delivery to a consignee outside the United Kingdom,
 shall be treated for the purposes of this Part of this Act both as goods shipped for exportation and as the exporting ship or aircraft and, in the case of a ship or aircraft

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within paragraph (b) above, the owner of the ship or aircraft or, where the owner is outside the United Kingdom, the builder of the ship or the manufacturer of the aircraft shall be deemed to be the exporter.

*Operative date for Community purposes.*

- 58D (1) Except as provided by any Community regulation or other instrument having the force of law and subject to subsection (3) below, the operative date for determining whether any, and if so what, levy or other charge provided for under any Community provision governing the exportation of goods is due in respect of the goods and for applying any other such provision including, in particular, any provision whereby any refund or relief is due in respect of the goods shall be such date as is mentioned in subsection (2) below.
- (2) The date referred to in subsection (1) above is—
- (a) in a case where an entry or a document such as is mentioned in section 58(3)(b) above is delivered, the date of acceptance of the entry or document;
  - (b) in the case of goods particulars of which are entered in a record in accordance with section 58A(3)(a)(ii) above, the day appointed for that entry;
  - (c) in the case of goods in relation to which substituted requirements are imposed under section 53(7) or 58(6) above, such date as the Commissioners may specify;
  - (d) in any other case, the date on which the goods are shipped or exported by land or, if that date cannot be established to the Commissioners' satisfaction, such date as they may specify.
- (3) At the time when the proper officer accepts an entry delivered in pursuance of section 57(1) above he may direct that the operative date for the purposes of this section shall be the date on which the entry was furnished by the exporter to the loader.
- (4) Where a substituted entry is delivered under section 54(2) or 55(3) above the entry referred to in subsections (2)(a) and (3) above is the original entry.

*Authentication of Community customs documents.*

- 58E (1) In such cases as the Commissioners may direct, an officer shall not authenticate any Community customs document unless—
- (a) there is presented with the document—
    - (i) an entry relating to the goods in question and complying with section 53 above; or
    - (ii) a document relating to the goods and complying with section 58(3)(b) above; or
    - (iii) a document to be used instead of an entry or such a document as aforesaid by virtue of substituted requirements imposed under section 53(7) or 58(6) above; and
  - (b) the officer marks the Community customs document and the entry or other document referred to in paragraph (a) above with a registration number allocated by the Commissioners for that purpose.
- (2) Subject to subsections (3) and (4) below, a person who has obtained an authenticated Community customs document in respect of any goods shall surrender it at the office

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- at which it was obtained, together with the entry or other document marked under subsection (1)(b) above (“the marked export document”), unless—
- (a) the goods are shipped, or cleared by the proper officer for export by land, before the end of such period as may be specified by directions given by the Commissioners; and
  - (b) the marked export document is delivered to the proper officer as required by or under the provisions mentioned in subsection (1)(a) above.
- (3) The proper officer may, on an application made to him before the end of the period mentioned in subsection (2) above, permit the retention of the authenticated Community customs document and the marked export document.
  - (4) The proper officer may at any time require a person who has obtained an authenticated Community customs document in respect of any goods to surrender to him that document and the marked export document.
  - (5) If a person without reasonable excuse fails to comply with subsection (2) above he shall be liable on summary conviction to a penalty of £500 ; and if a person without reasonable excuse fails to comply with a requirement imposed under subsection (4) above he shall be liable on summary conviction to a penalty of £1000.
  - (6) In this section “Community customs document” means a document which in accordance with any Community instrument or any agreement permitted under such an instrument or in accordance with any arrangements made between the Commissioners and any other customs authority—
    - (a) is used to indicate whether or not the goods are Community goods or are subject to duty at a preferential rate in any country with which the Community has an agreement of association; and
    - (b) is required to be authenticated by the customs authorities of the member State from which they are exported.
  - (7) In subsection (6) above “Community goods” means—
    - (a) goods which satisfy the conditions laid down in Articles 9 and 10 of the E.E.C. Treaty; and
    - (b) goods to which the E.C.S.C. Treaty applies and which under the terms of that Treaty are in free circulation within the European Coal and Steel Community.

## PART II

### AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

#### *Control of movement of goods*

- 1 (1) Section 31 shall be amended as follows.
- (2) In subsection (1)—
  - (a) in paragraph (a) after the words “such goods” there shall be inserted the words “ or the place of exportation of such goods ” ; and
  - (b) in paragraph (b) after the words “such goods” there shall be inserted the words “ , or a place designated by the proper officer under section 53(4) or 58(3) below, ”.
- (3) After subsection (2) there shall be inserted—

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“(2A) Any documents required to be made or produced as a result of regulations made under subsection (1) above shall be made or produced in such form and manner and contain such particulars as the Commissioners may direct; but the Commissioners may relax any requirement imposed under the regulations that any specific document be made or produced and if they do so may impose substituted requirements.”

- (4) In subsection (3) after the words “such regulation” there shall be inserted the words “or a direction made under subsection (2A) above or any requirement imposed under that subsection”.

*Dutiable or restricted goods*

- 2 (1) Section 52 shall be amended as follows.

- (2) After paragraph (l) there shall be inserted—

“(g) goods incorporating or resulting from the use of inward processing goods or any goods which, following a determination by the Commissioners, are to be treated for customs purposes as inward processing goods in substitution for such goods.”.

- (3) The provisions of that section as amended by sub-paragraph (2) above shall become subsection (1) and after that subsection there shall be inserted—

“(2) In this section “inward processing goods” means goods imported for the purpose of being worked on, processed or used in any process or repaired and on the importation of which relief from import duty or agricultural levy was given on condition that goods incorporating or resulting from the use of them would be exported outside the Community; and in this subsection “agricultural levy” means any tax or charge, not being a customs duty, provided for under the common agricultural policy or under any special arrangements which, pursuant to Article 235 of the E.E.C. Treaty are applicable to goods resulting from the processing of agricultural products.”

*Restrictions on putting export goods alongside for loading*

- 3 In section 59(1) for the words “whether under section 53 or section 54 above” there shall be substituted the words “under section 53 above”.

*Provisions as to stores*

- 4 (1) Section 61 shall be amended as follows.

- (2) In subsection (2) (right to ship stores in ship of not less than 40 tons register or aircraft departing for a voyage or flight to some place outside the United Kingdom) for the words “to some place outside the United Kingdom” there shall be substituted the words “to a country outside the United Kingdom”.

- (3) In subsection (3) (power of Commissioners to permit stores to be shipped in ship of less than 40 tons register which is departing for a place or area outside the United Kingdom) for the words from “any ship” onwards there shall be substituted the words—

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- “(a) any ship departing from the United Kingdom, being either a ship of not less than 40 tons register departing for a voyage not falling within subsection (2) above or a ship of less than 40 tons register; or
- (b) any aircraft departing from the United Kingdom for a flight not falling within that subsection.”

(4) For subsection (9) there shall be substituted—

“(9) References in this section to a country or destination outside the United Kingdom do not include references to, or to a destination in, the Isle of Man ; and subsection (5) above applies whether the goods were shipped in the United Kingdom or the Isle of Man.”

*Power to make regulations as to exportation, etc.*

- 5 In section 66(2) for the words “a penalty of £100” there shall be substituted the words “a penalty of £500, or in the case of a contravention of or a failure to comply with a regulation made under subsection (1)(b) above a penalty of £1,000, ”.

## <sup>x3</sup>SCHEDULE 8

Section 11(1).

### MISCELLANEOUS CUSTOMS AND EXCISE AMENDMENTS

#### Editorial Information

- X3** The text of Sch. 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## PART I

### AMENDMENTS OF <sup>M1</sup>CUSTOMS AND EXCISE MANAGEMENT ACT 1979

#### Marginal Citations

- M1** 1979 c. 2.

#### *Definition of “revenue trader”*

- 1 (1) In the definition of “revenue trader” in subsection (1) of section 1—
- (a) after the word “means” there shall be inserted “ (a) ” ; and
  - (b) for the words “and includes a registered club” there shall be substituted the words “ ; and
    - (b) any person who is a wholesaler or an occupier of an excise warehouse (so far as not included in paragraph (a) above),
 and includes a registered club ”.



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- (2) In the Table in subsection (3) of that section the word “wholesaler” shall be inserted after the word “spirits”.

#### *Warehousing regulations*

- 2 In section 93—
- (a) in paragraph (a) of subsection (2) after the words “deposited in” there shall be inserted the words “secured in” ;
  - (b) ..... F5
  - (c) after subsection (2) there shall be inserted—
    - “(2A) Where any documents removed under the powers conferred by subsection (2)(g) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.” ; and
  - (d) in subsection (6)—
    - (i) for the words “or restriction” there shall be substituted the words “restriction or requirement” ; and
    - (ii) for “£100” there shall be substituted “£200 together with a penalty of £20 for each day on which the failure continues”.

#### **Textual Amendments**

**F5** Sch. 8 paras. 2(b), 14(b) repealed by Finance Act 1986 (c. 41, SIF 40:1), s. 114, Sch. 23 Pt. I

#### *Deficiency in warehoused goods*

- 3 Section 94(2) shall cease to have effect.

#### *Procedure on warehouse ceasing to be approved*

- 4 In section 98—
- (a) at the end of subsection (1) there shall be inserted the words “ and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date ” ; and
  - (b) for subsection (3) there shall be substituted—
    - “(3) If after the date, on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse—
      - (a) they may be taken by an officer to a Queen’s warehouse and, without Prejudice to section 99(3) below, if they are not cleared from it within one month may be sold ; or
      - (b) if the Commissioners so allow, they may re in the former warehouse and if they are not cleared from it within one month may be sold.

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(3A) Where in accordance with paragraph (b) above goods remain in the warehouse after the revocation or expiry of the Commissioners' approval—

- (a) subsections (6) and (7) of section 99 below shall apply to them as if they were deposited in a Queen's warehouse under the Customs and Excise Acts 1979; and
- (b) sections 93, 94, 95 and 97 above and section 100 below shall apply and any security given by bond or otherwise and any condition imposed by or under the customs and excise Acts shall continue to have effect, as if the former warehouse were still a warehouse."

*Excise licences*

5 Sections 105 and 106 shall cease to have effect.

*Powers of entry on premises of revenue traders*

6 In section 112—

- (a) in subsection (1) after the word "machinery" there shall be inserted the word "vehicles"; and
- (b) in subsection (3) for the words "or maker of cider" there shall be substituted the words ", maker of cider or occupier of an excise warehouse".

*Power to estimate excise duties*

7 After section 116 there shall be inserted—

**"116A Power to estimate excise duties.**

- (1) Where an amount is due on account of any excise duty but the Commissioners are unable to ascertain the amount of the duty properly due because—
  - (a) returns, accounts, records or other documents have not been made, kept, preserved or produced by the occupier of an excise warehouse or a distiller as required by or under the provisions of the customs and excise Acts; or
  - (b) it appears to the Commissioners that any returns, accounts, records or other documents so made, kept, preserved or produced are incomplete or incorrect,
 they may estimate the amount due.
- (2) Without prejudice to the recovery of the full amount due or to the making of a further estimate, the amount estimated shall be recoverable as duty properly due unless in any action relating thereto the person liable proves the amount properly due and that amount is less than the amount estimated."

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### *Execution and distress*

8 After subsection (7) of section 117 there shall be inserted—

“(7A) Where distress is levied under this section for any amount estimated under section 116A above and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the distress or anything done under this section in connection therewith, but the proceeds of sale shall be applied under subsection (7) above in accordance with the amount properly due and not in accordance with the amount estimated”.

### *Proof of documents*

9 In section 153 after subsection (3) there shall be inserted—

“(4) A photograph of any document delivered to the Commissioners for any customs or excise purpose and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.”

## **PART II**

### AMENDMENTS OF <sup>M2</sup>ALCOHOLIC LIQUOR DUTIES ACT 1979

#### **Marginal Citations**

**M2** 1979 c. 4.

### *Ascertainment of volume etc. of alcoholic liquors from labels etc.*

10 After subsection (3) of section 2 there shall be inserted—

“(3A) Without prejudice to the generality of subsection (3) above, regulations under that subsection may provide that for the purpose of charging duty on any spirits, wine or made-wine contained in any bottle or other container, the strength, weight or volume of the spirits, wine or made-wine may be ascertained by reference to any information given on the bottle or other container by means of a label or otherwise or to any documents relating to the bottle or other container.”

### *Definitions of “wholesale” and “wholesaler”*

11 For the definitions of “wholesale” and “wholesaler” in section 4(1) there shall be substituted—

““wholesale”, in relation to dealing in dutiable alcoholic liquor, means the sale at any one time to any one person of quantities not less than the following, namely—

- (a) in the case of spirits, wine or made-wine, 9 litres or 1 case; or
- (b) in the case of beer or cider, 20 litres or 2 cases;

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“wholesaler” means a person who deals wholesale in dutiable alcoholic liquor;”.

*Regulations about manufacture of spirits*

12 In section 13—

(a) after subsection (1) there shall be inserted—

“(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—

- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and
- (b) impose or provide for the imposition of requirements on a manufacturer of spirits to keep and preserve records relating to his business as such a manufacturer and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

(1B) Where any documents removed under the powers conferred by subsection (1A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;

- (b) in subsection (3) after the words “subsection (1) above” there shall be inserted the words “or with any condition, restriction or requirement imposed under such a regulation” and after the words “£1,000” there shall be inserted the words “together in the case of such a failure with a penalty of £20 for each day on which the failure continues” ;
- (c) at the end of subsection (4) there shall be inserted the words “or with any condition, restriction or requirement imposed under that regulation”.

*Attenuation charge for distilled spirits*

13 In section 14(2) for the words “8.8 degrees” in both places where they occur there shall be substituted the words “ 8 degrees ”

*Distillers’ warehouses*

14 In section 15—

(a) for subsection (2) there shall be substituted—

“(2) The Commissioners may approve such a place of security for such periods and subject to such conditions as they think fit.” ;

(b) .....

(c) in subsection (7) after the words “subsection (6) above” there shall be inserted the words “or with any condition, restriction or requirement

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imposed under such a regulation” and after the words “£1,000” there shall be inserted the words “together in the case of such a failure with a penalty of £20 for each day on which the failure continues”.

- (d) at the end of subsection (8) there shall be inserted the words “or with any condition, restriction or requirement imposed under that regulation”.

#### Textual Amendments

F6 Sch. 8 paras. 2(b), 14(b) repealed by Finance Act 1986 (c. 41, SIF 40:1), s. 114, Sch. 23 Pt. I

#### *Rectifying and compounding of spirits*

15 In section 19—

- (a) after subsection (1) there shall be inserted—

“(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—

- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and  
(b) impose or provide for the imposition under the regulations of requirements on rectifiers and compounders of spirits to keep and preserve records relating to their business as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

(1B) Where any documents removed under the powers conferred by subsection (1A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;

- (b) in subsection (2) after the word “section” there shall be inserted the words “or with any condition, restriction or requirement imposed under any such regulation” and  
(c) at the end of subsection (3) there shall be inserted the words “or with any condition, restriction or requirement imposed under that regulation”.

#### *Drawback on British compounds and spirits of wine*

16 In section 22 after subsection (3) there shall be inserted—

“(3A) The Commissioners may, subject to such conditions and restrictions as they may by regulations impose, allow drawback to any person on any British compounded spirits or spirits of wine rectified or compounded by him from duty-paid spirits and not containing any methyl alcohol or any wine, made-wine or other fermented liquor if they are exported direct from his premises.”

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*Restrictions on distillers and rectifiers*

17 In section 24—

- (a) at the beginning of subsection (1) there shall be inserted the words “ Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose ” ; and
- (b) in subsection (3) after the word “retailer” there shall be inserted the words “ or wholesaler ”.

*Spirits consignment and advice notes*

18 Sections 27 to 30 shall cease to have effect.

*Transfer of spirit from distillers’ warehouses*

19 In section 32(1) the words from “and” onwards shall cease to have effect.

*Abolition of wholesalers’ licences etc.*

20 Sections 65, 68, 70 and 85 to 89 shall cease to have effect.

*Restrictions on wholesalers of spirits*

21 At the beginning of section 69(1) there shall be inserted the words “ Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose. ”.

*Methylated spirits*

22 Section 76 shall cease to have effect.

23 In section 77—

- (a) in subsection (1) in paragraph (d) for the words “the sale without a licence of” there shall be substituted the words “ dealing wholesale (within the meaning of section 75 above) without a licence in ” ;
- (b) at the end of subsection (2) there shall be inserted the words “and, without prejudice to the generality of subsection (1) above, regulations under this section may—
  - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
  - (b) impose or provide for the imposition by regulations of requirements on authorised or licensed methylators and on retailers of methylated spirits to keep and preserve records relating to their businesses as such and to produce, them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.”;
- (c) after that subsection there shall be inserted—
  - “(2A) Where any documents removed under the powers conferred by subsection (2)(b) above are lost or damaged the Commissioners

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shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;

- (d) in subsection (3) for the words “he shall be liable” onwards there shall be substituted the words “ or with any condition, restriction or requirement imposed under such a regulation, he shall be liable on summary conviction to a penalty of £500 together in the case of such a failure with a penalty of £20 for each day on which the failure continues ” ; and
- (e) in subsection (4) for the word “sells” there shall be substituted the words “ deals wholesale (within the meaning of section 75 above) in ” and the words “or 76” shall cease to have effect.

### PART III

#### AMENDMENTS OF LICENSING ACTS

##### *The <sup>M3</sup>Licensing Act 1964*

#### Marginal Citations

**M3** 1964 c. 26.

- [<sup>F7</sup>24 In section 181 of the Licensing Act 1964—
- (a) for the words from “the holder” to “his wholesaler’s licence extends” there shall be substituted the words “ a wholesaler within the meaning of section 4 of the Alcoholic Liquor Duties Act 1979 may, at the premises from which he deals wholesale, sell by retail without a justices’ licence any intoxicating liquor other than cider in which he deals wholesale ” ; and
  - (b) in paragraph (b) (iii) for the words “holder of the wholesaler’s licence” there shall be substituted the word “ wholesaler ”.]

#### Textual Amendments

**F7** Sch. 8 para. 24 repealed (E.W.) by [Licensing \(Retail Sales\) Act 1988 \(c. 25, SIF 68A:1\)](#), s. 3(e)

- 25 In the definition of “intoxicating liquor” in section 201(1) of that Act for the words from “but” onwards there shall be substituted the words “but does not include—
- (a) any liquor which, whether made on the premises of a brewer for sale or elsewhere, is found on analysis of a sample thereof at any time to be of an original gravity not exceeding 1016° and of a strength not exceeding 1.2 per cent;
  - (b) perfumes;
  - (c) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor;
  - (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage;

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and expressions used in paragraphs (a) and (d) above shall have the same meaning as in the Alcoholic Liquor Duties Act 1979.”.

26—28. .... **F8**

**Textual Amendments**  
**F8** Sch. 8 paras. 26–28 repealed by S.I. 1990/594, (N.I.6), art. 90(4), Sch. 13

SCHEDULES 9—

12. .... **F9**

**Textual Amendments**  
**F9** Schedules 9–12 repealed by Income and Corporation Taxes Act 1988 (c. 1), s. 844, **Sch. 31**

**F10**SCHEDULES 13, 14

**Textual Amendments**  
**F10** Schs. 13, 14 repealed by Capital Transfer Tax Act 1984 (c. 51), ss. 274, 277, Schs. 7, **9**

..... **F10**

**F11**SCHEDULE 15

**Textual Amendments**  
**F11** Sch. 15 repealed by Finance Act 1982 (c. 39), ss. 97(4), 157, **Sch. 22**, Pt. VII Note I

..... **F11**



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## <sup>F12</sup>SCHEDULE 16

Section 128(1)

### SUPPLEMENTARY PETROLEUM DUTY

#### Textual Amendments

**F12** Sch. 16 repealed by Finance Act 1982 (c. 39), s. 157(6), Sch. 22 Pt. IX for chargeable periods ending after 31 December 1982.

#### *Management*

- 1 The duty shall be under the care and management of the Board.
- 2 (1) The provisions of the Taxes Management Act 1970 which are applied in relation to petroleum revenue tax by paragraph I of Schedule 2 to the principal Act shall apply also in relation to the duty.  
(2) Those provisions shall apply with the same modifications as are specified in the said paragraph 1, taking references to Part I of the principal Act as including references to Part VIII of this Act.

#### *Returns and information*

- 3 The particulars contained in returns made under paragraph 2 or 5 of Schedule 2 to the principal Act (returns by participators and by the responsible person for an oil field) shall be treated as furnished, and the powers conferred on the Board by paragraph 7 of that Schedule (production of accounts etc.) shall be exercisable, for the purposes of the duty as well as for the purposes of petroleum revenue tax, and accordingly references to that tax in paragraphs 3(2) and 8(1) and (2) of that Schedule (penalties) shall include references to the duty.

#### *Assessments and determinations*

- 4 (1) Where it appears to the Board that, in accordance with Part VIII of this Act, a gross profit has accrued to a participator in a chargeable period from an oil field, they shall make an assessment to the duty on the participator and give him notice of the assessment.  
(2) Where it appears to the Board that, in accordance with Part VIII of this Act, no gross profit has accrued to a participator in a chargeable period from an oil field, they shall make a determination to that effect and give him notice of the determination.  
(3) A notice of assessment shall state that the participator may appeal against the assessment in accordance with paragraph 7 below.  
(4) After the service of the notice of assessment or the notice of determination the assessment or determination, as the case may be, shall not be altered except in accordance with the provisions applied by paragraph 2 above or the subsequent provisions of this Schedule.
- 5 (1) Where a participator has under paragraph 2 of Schedule 2 to the principal Act delivered to the Board a return for a chargeable period and the Board are satisfied that the information given in the return is correct in so far as it is material for the purpose of computing his gross profit (if any) for that period, the Board shall (in so

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far as the computation falls to be made by reference to the matters dealt with in the return) make the assessment or determination under paragraph 4 above in accordance with the return.

- (2) Where the Board are not so satisfied in relation to a participator's return or a participator fails to deliver to the Board a return for a chargeable period as required by the said paragraph 2, the Board shall, in so far as the computation of his gross profit (if any) for that period falls to be made by reference to the matters which were dealt with in the return or, as the case may be, ought to have been dealt with in a return, make the assessment or determination under paragraph 4 above to the best of their judgment.
- (3) Nothing in sub-paragraph (2) above or in paragraph 5 of Schedule 2 to the principal Act shall be taken, in a case where the participator has delivered a return as to which the Board are not satisfied as mentioned in sub-paragraph (1) above, to prevent the Board from basing their assessment or determination on the participator's having had an interest in oil won and saved from the field different from that on which he based his return.
- 6 (1) Where it appears to the Board—
- (a) that the gross profit charged to the duty by an assessment ought to have been larger or smaller; or
  - (b) that for any period they ought to have made an assessment to the duty instead of a determination under paragraph 4(2) above or such a determination instead of an assessment to the duty,

the Board may make any such assessment or determination or any such amendment of an assessment as may be necessary.

- (2) Where under this paragraph the Board make an assessment or determination or amend an assessment, they shall give notice thereof to the participator concerned; and sub-paragraphs (3) and (4) of paragraph 4 above shall apply in relation to any such assessment, determination or amendment as they apply in relation to an assessment or determination under that paragraph.

#### *Appeals*

- 7 (1) A participator may appeal to the Special Commissioners against an assessment or an amendment of an assessment made on him by notice of appeal in writing given to the Board within thirty days after the date of issue of the notice of assessment or of the amendment.
- (2) The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and may take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (3) The participator may at any time, if the Board do not object, abandon an appeal instituted by him; and for that purpose he shall notify his desire to do so to the Board who may, within thirty days after being so notified, object by notice in writing to the participator.
- (4) Where at any time between—
- (a) the giving of a notice of appeal against the assessment or the amendment of the assessment or from a decision of the Board on a claim under section 33 of the Taxes Management Act 1970 as applied by paragraph 2 above; and

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- (b) the determination of the appeal by the Special Commissioners, the Board and the participator agree on how the assessment, amendment or decision should be varied or on what assessment or determination should be substituted in relation to the chargeable period in question, the same consequences shall ensue as if the Commissioners had determined the appeal to that effect.
- (5) If, on the appeal against an assessment or an amendment of an assessment, it appears to the majority of the Commissioners present at the hearing that the assessment or amendment is wrong—
  - (a) because no, or a smaller, gross profit has accrued for the chargeable period in question; or
  - (b) because a, or a larger, gross profit has accrued for that period,the Commissioners shall vary the assessment or amendment in such manner, or substitute such determination, as may be required; and it shall be for the participator to satisfy the Commissioners as to any matters within paragraph (a) above.
- (6) Save as otherwise provided by this Schedule (including the provisions applied by paragraph 2 above) the determination by the Special Commissioners of any appeal shall be final and conclusive.
- 8 (1) A participator who has given notice of appeal under paragraph 7 above against an assessment charging him with any duty for a chargeable period may, if he delivered a return for that period as required by paragraph 2 of Schedule 2 to the principal Act, withhold, until the determination or abandonment of the appeal, so much of the duty charged in the assessment as is the smaller of—
  - (a) the amount of the duty so charged; and
  - (b) duty on the difference between—
    - (i) the aggregate of the consideration received or receivable for oil as stated in the participator's return in pursuance of sub-paragraph (2) of the said paragraph 2 and, subject to sub-paragraph (2) below, the market value of oil so stated; and
    - (ii) the aggregate of the corresponding consideration and value as included in the assessment.
- (2) Subject to sub-paragraph (3) below, where the market value of all the oil for which a market value is stated in the participator's return is, as stated in that return, less than the value which is produced for that oil by applying to it the average price mentioned in sub-paragraph (4) below, sub-paragraph (1) above shall have effect as if, for the reference to the market value of oil as so stated, there were substituted a reference to the value which is so produced for that oil.
- (3) The comparison of values and the substitution required by sub-paragraph (2) above shall, in the case of an appeal by a participator whose return relates both to gas and to other oil, be made separately for the gas and for the other oil.
- (4) The average price referred to in sub-paragraph (2) above is the average price at which all oil included in the relevant returns as oil delivered in the period covered by the returns and disposed of in sales at arm's length was so disposed of.
- (5) The relevant returns for the purposes of sub-paragraph (4) above are all the returns of all the participators in all oil fields which—
  - (a) were made for the chargeable period preceding that to which the appeal relates; and

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- (b) were delivered before the end of the chargeable period to which the appeal relates.
- (6) Where in determining the gross profit accruing to a participator from a field in a chargeable period the aggregate of the amounts mentioned in section 2(5)(a), (b) and (c) of the principal Act falls to be increased under section 123 of this Act (whether as respects all oil or as respects a particular kind or kinds of oil) the difference mentioned in sub-paragraph (1)(b) above (or as the case may be, the difference so far as relating to oil of the particular kind or kinds in question) shall be increased by multiplying it by the fraction mentioned in subsection (2) of that section.

### Payment

- 9 Subject to paragraphs 7 and 8 above, the duty charged in an assessment made on a participator for any chargeable period, so far as not paid under paragraphs 10 and 11 below, shall be payable by him four months after the end of that chargeable period or, if later, thirty days after the date of issue of the notice of assessment.

#### Modifications etc. (not altering text)

- C1** See Finance Act 1982 (c. 39), s. 135(1)(b)—no payment of duty required by virtue of a deemed determination under s. 135(1)(a)

- 10 (1) Every participator in an oil field shall, at the time when he delivers to the Board the return for a chargeable period required by paragraph 2 of Schedule 2 to the principal Act—
- (a) deliver to the Board a statement showing whether any, and if so what, amount of duty is payable by him under this paragraph for that period in respect of the field; and
  - (b) pay to the Board a sum equal to the amount of duty, if any, shown in the statement.
- (2) The statement under sub-paragraph (1)(a) above shall be in such form as the Board may prescribe.
- (3) For the purposes of sub-paragraph (1)(a) above the duty payable by a participator for any chargeable period in respect of an oil field shall be determined by him by—
- (a) calculating the gross profit accruing to him for that period from the field by reference to the particulars included in the return in pursuance of the paragraph 2(2) of Schedule 2 to the principal Act (and without regard to sections 123 and 124 of this Act);
  - (b) making any addition required by section 123 of this Act;
  - (c) making the reduction required by section 124 of this Act; and
  - (d) applying to the result the percentage rate at which the duty is chargeable for the period.
- (4) The sum paid under sub-paragraph (1)(b) above shall constitute a payment on account of the duty charged in any assessment made on the participator in respect of the gross profit accruing to him for the chargeable period from the oil field; and if the payment on account exceeds the duty so charged the excess shall be repaid to the participator.

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- (5) Where a participator gives notice of appeal under paragraph 7 above against an assessment charging duty in respect of which he has made a payment on account, the amount, if any, to be repaid under sub-paragraph (4) above shall be calculated as if the duty charged in the assessment were limited to the duty which he would not be entitled to withhold under paragraph 8 above.

**Modifications etc. (not altering text)**

- C2** See Finance Act 1982 (c. 39), s. 135(3)(c)—para. 10 not to apply to additional returns made under the Oil Taxation Act 1975 Sch. 2 para. 2 by virtue of s. 135(3)(a) in relation to further determinations made after 31 December 1981.
- C3** See Finance Act 1982 (c. 39), s. 139(6), Sch. 19 para. 12—payments for chargeable period to December 1982.

- 11 (1) Subject to sub-paragraphs (4) and (6) below, every participator in an oil field shall, in the third month of each chargeable period and in each of the four succeeding months, make to the Board an advance payment of duty in respect of the field for that period.
- (2) The amount of each payment shall be equal to one-fifth of the amount, if any, shown in the statement delivered by the participator under paragraph 10(1)(a) above as payable by him in respect of the field for the last chargeable period.
- (3) The aggregate of the advance payments of duty made by a participator in respect of a field for a chargeable period—
- (a) shall, to the extent to which it does not exceed the sum which sub-paragraph (1)(b) of paragraph 10 above requires him to pay when delivering his return for that period in respect of the field—
- (i) discharge his liability to pay the whole or a corresponding part of that sum; and
- (ii) be treated for the purposes of sub-paragraph (4) of that paragraph as if it were, or were part of, a sum paid by him under sub-paragraph (1) (b) of that paragraph; and
- (b) shall, to the extent to which it exceeds the sum required to be paid as aforesaid, be repaid to him.
- (4) If in any month in a chargeable period a participator in an oil field—
- (a) has not delivered (otherwise than to the Secretary of State) any of the oil which has been won from the field and disposed of by him at any time in or before that month; and
- (b) has not relevantly appropriated any of the oil which has been so won by him at any such time,
- he shall be entitled to withhold the advance payment of duty (if any) in respect of the field for that period which next falls to be made by him after the end of that month.
- (5) An advance payment shall not be withheld by virtue of the conditions in sub-paragraph (4) above being fulfilled in any month unless a notice to that effect, in such form as the Board may prescribe, is given to the Board before the end of the next month and—
- (a) where the Board are not satisfied with any such notice the powers conferred by paragraph 7 of Schedule 2 to the principal Act (production of accounts etc.) shall be exercisable as if the notice were a return under paragraph 2 of that Schedule; and

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- (b) paragraph 8 of that Schedule (penalties) shall apply to an incorrect notice as it applies to an incorrect return under paragraph 2.
- (6) No advance Payment of duty shall be made in respect of the first chargeable period to which Part VIII of this Act applies or in respect of the first chargeable period for any oil field.
- 12 Certificates of tax deposit issued by the Treasury under section 12 of the <sup>M4</sup>National Loans Act 1968 on terms published on or before 14th May 1979 may be used for making payments of duty; and for that purpose those terms shall have effect with the necessary modifications and as if the duty in or towards the payment of which a certificate is used where due—
- (a) in the case of duty payable under paragraph 9 or 10 above, two months after the end of the chargeable period to which it relates;
- (b) in the case of duty payable under paragraph 11 above, at the end of the month in which it is required to be paid.

#### Marginal Citations

M4 1968 c. 13

#### Interest

- 13 (1) Duty charged in an assessment for a chargeable period shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from two months after the end of the period until payment.
- (2) Any amount payable by a participator as an advance payment of duty in respect of a field for a chargeable period and not paid by him in the month in which it ought to be paid shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from the end of that month until—
- (a) payment of the amount; or
- (b) two months after the end of that period,
- whichever is the earlier.
- (3) Where under paragraph 8 above duty may be withheld until the determination or abandonment of an appeal, the interest on that duty may also be withheld until the determination or abandonment of the appeal.
- (4) Where any amount of duty charged by an assessment or paid on account of duty so charged becomes repayable, that amount shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from—
- (a) two months after the end of the chargeable period for which the assessment was made; or
- (b) the date on which it was paid,
- whichever is the later, until [<sup>F13</sup>the order for repayment is issued].
- (5) Where any amount of duty paid as an advance payment becomes repayable under paragraph 11(3)(b) above, that amount shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from—
- (a) two months after the end of the chargeable period in respect of which it was paid; or

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- (b) the date on which it was paid,  
whichever is the later, until [<sup>F13</sup>the order for the repayment is issued].
- (6) For the purposes of sub-paragraph (2) above a payment of overdue duty shall, so far as possible be attributed to the earliest month for which duty is overdue; and for the purposes of sub-paragraphs (4) and (5) above any amount that becomes repayable shall, so far as possible, be regarded as consisting of the duty most recently paid.
- (7) In its application (by virtue of paragraph 2(1) above) to interest payable under sub-paragraph (2) above, section 69 of the Taxes Management Act 1970 shall have effect with the omission of the words “charged and due and payable under the assessment to which it relates”.
- (8) Interest paid to a participator under sub-paragraph (4) or (5) above shall be disregarded in computing his income for the purposes of corporation tax.

#### Textual Amendments

- F13** Words substituted by [Finance Act 1989 \(c. 26\), s. 180\(2\)\(c\)\(7\)](#)—deemed always to have had effect. Previously “repayment”.

#### *Transfers to associated companies*

- 14 In paragraph 5(2) and (4) of Schedule 3 to the principal Act (liability for petroleum revenue tax and interest in the case of transfers to associated companies) the references to tax and to interest payable under Part I of that Act shall include references to the duty and to interest payable under paragraph 13 above.]

### X<sup>4</sup>SCHEDULE 17

Section 134.

#### SPECIAL TAX ON BANKING DEPOSITS

#### Editorial Information

- X4** The text of Sch. 17 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### PART I

#### THE BASE PERIOD AND CHARGEABLE DEPOSITS

##### *The base period*

- 1 (1) The base period for the purposes of section 134 of this Act (“the principal section”) is the last quarter of 1980; and the average chargeable deposits held by a person in that period shall be determined by—
- (a) aggregating the chargeable deposits held by him at the close of a business on 15th October, 19th November and 10th December 1980; and

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- (b) dividing the result by three.
- (2) Where a person regularly prepares statistics of the deposits held by him as at the close of business on a particular day in each month and the day in October, November or December 1980 is not that mentioned in sub-paragraph (1)(a) above, the Board may, on the application of that person, direct that for any of those days there shall be substituted the day in the month in question for which that person has prepared the statistics.
- (3) Any time at which the amount of the chargeable deposits held by a person falls to be ascertained by virtue of this paragraph is in this Schedule referred to as a material time.

### *Chargeable deposits*

- 2 For the purposes of the principal section and this Schedule a deposit is any sum of money paid to a person carrying on a banking business (“a deposit-taker”) on terms—
- (a) under which it will be repaid either on demand or at a time or in circumstances agreed by or on behalf of the person who paid the sum and the deposit-taker; and
  - (b) which are not, within the meaning of subsection (6) of section 1 of the <sup>M5</sup>Banking Act 1979, referable to the provision of property or services or to the giving of security.

#### **Marginal Citations**

**M5** 1979 c. 37.

- 3 (1) Subject to the following provisions of this paragraph, a deposit is a chargeable deposit at a material time if it is then held on terms under which it does not carry interest or a premium.
- (2) The following are not chargeable deposits—
- (a) any deposit not denominated in sterling;
  - (b) any deposit paid to the deposit-taker by a company if at the material time the deposit-taker is a subsidiary of that company, or that company is a subsidiary of the deposit-taker, or both are subsidiaries of another company;
  - (c) where the deposit-taker is resident in the United Kingdom for the purposes of income or corporation tax, any deposit which at the material time is held at a branch of his situated outside the United Kingdom;
  - (d) where the deposit-taker is not so resident, any deposit which at that time is held otherwise than at a branch of his situated in the United Kingdom.
- (3) In sub-paragraph (1) above the reference to interest or a premium shall not be construed as including any allowance made by the deposit-taker in calculating whether any, and if so what, bank or other charges are to be made by him to the person making the deposit.
- (4) In sub-paragraph (2)(b) above “subsidiary” shall be construed in accordance with section 154 of the <sup>M6</sup>Companies Act 1948 or section 148 of the <sup>M7</sup>Companies Act (Northern Ireland) 1960.



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- (5) For the purposes of sub-paragraph (2)(c) and (d) above a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.

#### Marginal Citations

- M6 1948 c. 38.  
M7 1960 c. 22 (N.I.)

- 4 (1) Where any amount of the chargeable deposits held by a deposit-taker at a material time consists of the credit balance or balances on one or more accounts which the deposit-taker treats as reducing or extinguishing the amount on which he is entitled to interest in respect of the debit balance or balances on one or more other accounts held with him at that time, that amount of chargeable deposits shall be treated as equal to its excess, if any, over that other amount.
- (2) This paragraph applies only if the other account or accounts are denominated in sterling.
- 5 (1) The amount of chargeable deposits held by a deposit-taker at any material time shall be treated as—
- (a) reduced by an amount equal to 60 per cent. of any sum which has been credited in his books to an account held with him (whether or not an account the balance on which constitutes a chargeable deposit) by reference to a cheque or other authority which is then in course of collection by him; and
- (b) increased by an amount equal to 60 per cent. of any sum which has been debited in his books to such an account by reference to a standing order or other authority which is then in course of transmission by him.
- (2) In this paragraph “sum” means a sum denominated in sterling.
- 6 Where a person was carrying on a banking business at any time in the last quarter of 1980 but was not carrying on such a business on 10th March 1981, then, if his business was, after the first of the material times and before that date, transferred to another person who was carrying on such a business on that date, the principal section and this Schedule shall have effect as if any chargeable deposits held by the first-mentioned person at any material time had then been held by the other person.

## PART II

### MANAGEMENT AND COLLECTION

#### *Management*

- 7 The tax shall be under care and management of the Board.

#### *Notice of liability*

- 8 (1) Every person who is chargeable with the tax shall give notice to the Board that he is so chargeable.
- (2) The notice shall be given not later than 1st September 1981.

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- (3) If any person fails to give the notice which he is required to give under this paragraph he shall be liable to a penalty not exceeding £1,000.
- (4) Any application under paragraph 1(2) above shall be included in the notice given under this section.

#### *Returns*

- 9 (1) Every person who is chargeable with the tax shall on or before 1st October 1981 deliver to the Board a return complying with the following provisions of this paragraph; and the Board may by notice in writing require any person who—
  - (a) has not given a notice under paragraph 8 above; but
  - (b) in the opinion of the Board is or may be chargeable with the tax,
 to deliver such a return to the Board within such time (not being less than thirty days) as may be specified in the notice.
- (2) Subject to sub-paragraph (3) below, a return delivered under this paragraph by any person shall contain—
  - (a) a statement, in relation to each material time, of the chargeable deposits held by him and of—
    - (i) any deposits excluded from the chargeable deposits by virtue of paragraph 3(2)(b), (c) or (d) above;
    - (ii) any adjustment of the amount of the chargeable deposits made by virtue of paragraph 4 or 5 above;
  - (b) a computation of the amount by reference to which he is chargeable with the tax, of the total tax chargeable by reference to that amount and of the respective amounts of the tax due and payable by him on or before each of the dates mentioned in paragraph 11(1) below; and
  - (c) such particulars of the aggregate amounts of the different kinds of deposit held by him in his banking business at each material time as the Board may require for the purposes of the tax.
- (3) In sub-paragraph (2)(c) above the reference to a person's banking business is—
  - (a) in the case of a person who is not resident in the United Kingdom for the purposes of income tax or corporation tax, to so much of his banking business as is carried on by his branch or branches situated in the United Kingdom;
  - (b) in the case of a person who is so resident, to his banking business exclusive of so much of it as is carried on by any branch of his which is situated outside the United Kingdom.
- (4) A return under this paragraph shall be in such form as the Board may prescribe and shall include a declaration that it is correct and complete.
- 10 (1) If a person fails to deliver a return within the time within which he is required to deliver it under paragraph 9 above he shall be liable, subject to sub-paragraph (3) below—
  - (a) to a penalty not exceeding, except in the case mentioned in sub-paragraph (2) below, £500; and
  - (b) if the failure continues after it has been declared by the court or the Special Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £100 for each day on which the failure so continues.

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- (2) If the failure continues after the end of six months from the time by which the return ought to have been delivered, the penalty under sub-paragraph (1)(a) above shall be an amount not exceeding the aggregate of £500 and the total amount of the tax with which the person in question is chargeable.
- (3) Except in the case mentioned in sub-paragraph (2) above, a person shall not be liable to any penalty incurred under this paragraph for failure to deliver a return if the failure is remedied before proceedings for the recovery of the penalty are commenced.

#### *Payment of tax*

- 11 (1) The tax chargeable in the case of any person shall be due and payable—
  - (a) as to one half, on or before 1st October 1981;
  - (b) as to one quarter, on or before 1st December 1981; and
  - (c) as to the remainder, on or before 1st February 1982,and shall be so due and payable whether or not an assessment to the tax has been made by the date in question.
- (2) Certificates of tax deposit issued by the Treasury under section 12 of the <sup>M8</sup>National Loans Act 1968 on terms published on or before 14th May 1979 may be used for paying the tax; and for that purpose those terms shall have effect with the necessary modifications and as if the tax in or towards the payment of which a certificate is used were due as provided in sub-paragraph (1) above.

#### **Marginal Citations**

**M8** 1968 c. 13.

#### *Assessments*

- 12 (1) Any tax with which a person is chargeable may be assessed on him whether or not it has been paid (in whole or in part) when the assessment is made.
- (2) The making of an assessment in respect of any tax shall not affect the date when it is due and payable.
- (3) Where a person has under paragraph 9 above delivered to the Board a return and the Board are satisfied that the information given in it with respect to his chargeable deposits is correct and complete, the Board shall make an assessment in accordance with the return.
- (4) Where the Board are not so satisfied in relation to a return, or a person fails to deliver to the Board a return as required under paragraph 9 above, any assessment made by the Board shall be made to the best of their judgment.
- (5) An assessment may be made at any time not later than 30th September 1987 except that where any form of fraud or wilful default or any neglect has been committed by or on behalf of any person in connection with or in relation to the tax, assessments on that person may, for the purpose of making good to the Crown any loss of tax attributable to the fraud, wilful default or neglect, be made at any time.
- (6) An assessment which by virtue of subsection (5) above is made after 30th September 1987 shall require the leave of a Special Commissioner given on being satisfied by an

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inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud, wilful default or neglect of any person; and the Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.

- (7) A person who is not resident in the United Kingdom may be assessed and charged with the tax in the name of any branch or agent in the United Kingdom.
  - (8) Notice of any assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.
  - (9) After the notice of assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the following provisions of this Schedule.
- 13 (1) Where it appears to the Board that the amount of tax charged by an assessment should have been larger they may make a further assessment; and where it appears to them that the amount charged by an assessment should have been smaller they may amend the assessment accordingly.
- (2) Paragraph 12(8) and (9) above shall apply in relation to any assessment or amendment under this paragraph.

#### *Right of appeal*

- 14 (1) An Appeal may be brought against an assessment to the tax by a notice of appeal in writing given to the Board within thirty days after the date of the notice of assessment.
- (2) The appeal shall be to the Special Commissioners.
- (3) The notice of appeal against any assessment shall specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward any ground not specified in the notice and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (4) Subject to section 55 of the <sup>M9</sup>Taxes Management Act 1970 as applied by paragraph 18 below, an appeal against an assessment shall not affect the date when any tax is due.

#### **Marginal Citations**

**M9** 1970 c. 9.

#### *Interest*

- 15 (1) Any tax with which a person is chargeable and which is not paid by the time by which paragraph 11(1) above requires it to be paid shall carry interest from that time until payment.
- (2) Sub-paragraph (1) above applies to any such tax as is there mentioned whether or not payment of it is postponed under section 55 of the Taxes Management Act 1970 as applied by paragraph 18 below.

*Status: Point in time view as at 01/02/1991.*

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- (3) Any amount of tax which becomes repayable shall carry interest—
  - (a) in the case of tax in respect of which interest has been paid under sub-paragraph (1) above, from the time by which paragraph 11(1) above requires the tax to be paid until it is repaid;
  - (b) in any other case, from the time when paragraph 11(1) above requires the tax to be paid (or, if later, the time when it is paid) until it is repaid.
- (4) The rate of interest under this paragraph for any period shall be that applying for that period for the purposes of sections 86 and 87 of the said Act of 1970.
- (5) Interest payable under sub-paragraph (1) above shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing income, profits or losses for any tax purposes; and interest paid under sub-paragraph (3) above shall be disregarded in computing income, profits or losses for any such purpose.

#### *Information*

- 16 (1) Where the Board are not satisfied that the information given in a return delivered by any person under paragraph 9 above is correct and complete or a person who the Board believe to be chargeable with the tax has failed to deliver to the Board a return under that paragraph, the Board may by notice in writing require that person—
  - (a) to deliver to the Board, within such time as is specified in the notice (not being less than thirty days), copies of any such accounts, books, records or other documents whatsoever in his possession or power as may be specified or described in the notice;
  - (b) to make available, within such time as aforesaid, for inspection by an officer authorised by the Board all such accounts, books, records or other documents whatsoever in that person's possession or power as may be so specified or described.being, in either case, accounts, books, records or documents which the Board may reasonably require to inspect for the purpose of determining whether a person is chargeable to the tax or the amount of the tax with which a person is chargeable.
- (2) An authorised officer of the Board may take copies of, or make extracts from, any accounts, books, records or other documents made available for inspection under this paragraph.
- (3) Nothing in this paragraph shall require a person to deliver or make available for inspection any particulars of an account held by any person except the balance at any material time.

#### *Incorrect returns, accounts, etc.*

- 17 (1) Where a person fraudulently or negligently—
  - (a) delivers an incorrect return under paragraph 9 above; or
  - (b) submits under paragraph 16 above any document that is incorrect,he shall be liable to a penalty not exceeding the aggregate of—
  - (i) £50, and
  - (ii) the amount or, in the case of fraud, twice the amount, of the difference between the tax payable and the tax that would have been payable if the return or document had been correct.

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- (2) Where a return or other document was made or submitted by a person neither fraudulently nor negligently and it comes to his notice that it was incorrect, then, unless the error is remedied without unreasonable delay, the return or document shall be treated for the purpose of this paragraph as having been negligently made or submitted.
- (3) For the purposes of this paragraph any return or document made or submitted on behalf of a person shall be deemed to have been made or submitted by him unless he proves that it was submitted without his consent or connivance.
- (4) In this paragraph “document” includes accounts, books and records.

*Application of Taxes Management Act*

- 18 (1) The provisions of the <sup>M10</sup>Taxes Management Act 1970 specified in the first column of the following Table shall apply in relation to the tax as they apply in relation to a tax within the meaning of that Act subject to any modifications specified in the second column of that Table and with the substitution—
- (a) for references to Part IX of that Act, to the Taxes Act or the Income Tax Acts of references to section 134 of this Act and this Schedule;
- (b) for references to profits or gains, profits, income or chargeable gains of references to amounts chargeable to the tax.

TABLE

<i>Provision applied</i>	<i>Modifications</i>
Section 1(3)	
4	
30	Omit the words after “accordingly”.
32	In subsection (1) omit “and for the same chargeable period”.
33(1)	For “six years after the end of the year of assessment (or, if the assessment is to corporation tax, the end of the accounting period) in which the assessment was made” substitute “ 30th September 1987 ”.
(2)	
(3)	Omit the words after “profits of the claimant”.
(4)	
(5)	For the words after “profits” substitute “ means amounts chargeable to the tax ”.
42(1)	
(2)	

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- (3) Omit the words after “that decision”.
- (4) Substitute “ (4) An appeal under this section shall lie to the Special Commissioners. ”
- (5) Omit the words after “such form as the Board may determine”.
- (7)
- (8)
- (9)
- 43(1) For the words “within six years from the end of the chargeable period to which it relates” substitute “ before 30th September 1987 ”.
- 48
- 49(1)
- 50 Omit the proviso to subsection (5).
- 51
- 52
- 53
- 54
- 55(1) Substitute “ (1) This section applies to an appeal to the Special Commissioners against an assessment under paragraph 12 of Schedule 17 to the Finance Act 1981 ”.
- (2)
- (3)
- (4)
- (5)
- (6) For paragraphs (a) and (b) substitute:  
“ (a) in the case of a determination made on an application under subsection (3) above, any tax the payment of which is not postponed shall be due and payable forthwith (or, if later, on the date on which it is due and payable under paragraph 11(1) of Schedule 17 to the Finance Act 1981); and ”  
“ (b) in the case of a determination made on an application under subsection (4) above, any tax the

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- payment of which ceases to be postponed shall be due and payable forthwith (or, if later, on the date referred to in paragraph (a) above) or any tax overpaid shall be repaid, as the case may require. ”
- (7)
- (8)
- (9) For the words from “as if it were tax” to “pending” there shall be substituted the words “ forthwith or, if later, on the date referred to in subsection (6)(a) above ”.
- (10) Omit the words from the beginning to “was issued; and”.
- 56
- 58(2)
- (3) . . . <sup>F14</sup> for paragraphs (a) and (b) substitute “ proceedings in Northern Ireland means proceedings in respect of a person whose principal place of business or head office is in Northern Ireland ”.
- 60 In subsection (1) omit the words after “charged therewith”.
- 66
- 67
- 68
- 69 In paragraph (a) substitute a reference to sections 66 to 68 as applied by this paragraph.
- 70(1)
- (2) For the reference to section 86 or 87 substitute a reference to paragraph 15 of this Schedule.
- 71
- 74
- 75
- 83
- 98 Omit the Table and for references to any of the provisions specified in it substitute a reference to section 51 as applied by this Schedule and to paragraph 16 of this Schedule.



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99	
100(1)	Omit the words before “no proceedings”.
(2)	
(3)	Omit the reference to the General Commissioners.
(5) to (9)	
101	For the words after “sufficient evidence” substitute the words “ of the chargeable deposits stated therein and of the excess over £15 million of the average of such deposits held in the base period ”.
102	
103(1)	
(2)	
(3)	Omit the words from “for any chargeable period” to “end of that chargeable period”.
104	
105	
107	
108	In subsection (2) for the words from the beginning to “Acts” substitute “ The tax chargeable under section 134 of the Finance Act 1981 ”.
112	
113(1A)	
(1B)	
(3)	
114	
115(1) to (3)	
118(1) to (3)	

- (2) Any expression to which a meaning is given by the principal section or this Schedule and which is used in a provision of the Taxes Management Act 1970 as applied by this paragraph shall in that provision, as so applied, have the same meaning as in that section and this Schedule.

#### Textual Amendments

**F14** Words repealed by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 pt. IX](#)

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### Marginal Citations

**M10** 1970 c. 9.

## <sup>F15</sup>SCHEDULE 18

### Textual Amendments

**F15** Sch. 18 repealed by Finance Act 1987 (c. 16, SIF 99:6), s. 72(7), **Sch. 16 Pt. XI**

.....  
F15

## <sup>X5</sup>SCHEDULE 19

Section 139.

### REPEALS

### Editorial Information

**X5** The text of Sch. 19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PROSPECTIVE

## PART I

### IMPORT PROCEDURES

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	<p>In section 1(1) the definition of “perfect entry”.</p> <p>Section 37(5)(a).</p> <p>In section 43, in subsection (2)(b) the words “or, in the case of goods entered by bill of sight, perfect entry” and subsection (4).</p> <p>Section 119(2).</p> <p>In section 128(1) and (2) the words “customs or”.</p>

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These repeals have effect from such day as may be appointed by the Commissioners of Customs and Excise by order made by statutory instrument and different days may be appointed for different repeals.

## PART II

### EXPORT PROCEDURES

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	Section 60(5) to (7).  Section 76.
1979 c. 58.	The Isle of Man Act 1979.	In Schedule 1, paragraphs 9, 10 and 11.

These repeals do not affect goods exported before 1st October 1981.

## PART III

### CUSTOMS AND EXCISE: MISCELLANEOUS

Chapter	Short title	Extent of repeal
1955 c. 16	The Food and Drugs Act 1955.	In section 3(4) the words from “but” onwards.
1956 c. 30.	The Food and Drugs (Scotland) Act 1956.	In section 3(4) the words from “but” onwards.
1958 c. 27 (N.I.).	The Food and Drugs (Northern Ireland) Act 1958.	In section 3(4) the words from “but” onwards.
1969 c. 16.	The Customs Duties (Dumping and Subsidies) Act 1969.	Section 16.
1972 c. 25.	The Betting and Gaming Duties Act 1972.	In section 6(3)(b)(ii) the words from “(disregarding” onwards.  In Schedule 2, in paragraph 14, the words “the contravention, or as the case may be”.  In Schedule 4, in paragraph 4(1) the words following the word “force” and in paragraph 17 the words “the contravention, or as the case may be”.

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1974 c. 30.	The Finance Act 1974.	Section 2(1).
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 5(4).  Section 6(4).
1976 c. 66.	The Licensing (Scotland) Act 1976.	Section 94.  In section 139(1), in the definition of “alcoholic liquor” the words from “so” onwards and the definition of “wholesaler’s excise licence”.
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 94, in subsection (1), the words “Subject to subsection (2) below”, and subsection (2). Section 95(2)(a). Sections 105 and 106.
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 117(6), the words from “subject” to “spirits”. In section 4(1), paragraph (b) of the definition of “retailer” and the definitions of “spirits advice note” and “spirits consignment note”. In section 21(2), paragraph (b). Sections 27 to 30. In section 32(1) the words from “and” onwards. Sections 65 and 66. Section 68. Section 70. Section 76. In section 77(4) the words “or 76”. Sections 84 to 89. In Schedule 3, paragraphs 1, 2, 5(2), 8(2), (3), (5) and 9(b).
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 17, in subsection (1) the words “unless that amount is

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		less than £2.50” and subsection (4).
		In section 18(1) the words “in such manner as the Commissioners may direct”, the words from “at any time” to “allow)” and the words “unless that amount is less than £5”.
		In section 19, in subsection (3) the words from “at any time” to “allow,” and subsections (4) and (5).
		In Schedule 4, in the heading to paragraph 1, the words “under sections 9 and 14”.
1979 c. 7.	The Tobacco Products Duty Act 1979.	In section 2(1) the words “subject to section 3 below”. Section 3. In section 4 the words “and in section 3(1) above”. In section 6(5), paragraph (b) together with the word “and” immediately preceding it.
1980 c. 48.	The Finance Act 1980.	Sections 1 and 2. Section 4(2) and (3). Section 5(2) and (3). Section 8. Schedules 1 to 4.

- 1 The repeals in the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs (Northern Ireland) Act 1958, the Licensing (Scotland) Act 1976 and Schedule 3 to the Alcoholic Liquor Duties Act 1979 and the repeals of sections 65(1) to (7), 66, 70, 84, 86(1)(a) and (2) and 89 of the said Act of 1979 have effect from 1st July 1982.
- 2 The repeal in section 6 of the Betting and Gaming Duties Act 1972 has effect from 1st July 1981.
- 3 The repeals in the Finance (No. 2) Act 1975 and the repeals of sections 4(2), (3), 5(2) and (3) of and Schedules 3 and 4 to the Finance Act 1980 do not affect licences taken out before 11th March 1981.
- 4 The repeals in the Hydrocarbon Oil Duties Act 1979 have effect in relation to oil used on or after 1st January 1982.

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#### PART IV

##### VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1980 c. 48.	The Finance Act 1980.	In section 11, in subsection (1) the figure “(3)”, and subsections (3) and (5). Section 12(3).

#### PART V

##### CAR TAX

Chapter	Short title	Extent of repeal
1972 c. 41.	The Finance Act 1972.	In section 52(3) the words “has three or more wheels”.  In Schedule 7, in paragraph 7(a) the words “and was not registered before it was exported” and in paragraph 7(b) the words “and is not registered”.

#### PART VI

##### INCOME TAX AND CORPORATION TAX: GENERAL

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 8(2)(b)(i) the word “and”.  In section 18, in subsection (2) paragraph (c) together with the word “and” preceding it and in subsection (6) the definition of “tax-free disability payment”. Sections 95 to 97.  In section 188(6) the words “payment of compensation for loss of office”.  In section 269(1), paragraph (c) together with

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		the word “and” immediately preceding it.
		Section 451(4).
		In Schedule 8, paragraphs 3 to 5, in paragraph 6 the words in brackets, paragraphs 8 and 9, in paragraph 10 the proviso, in paragraph 11 the words from “and as if” onwards and paragraph 13.
1971 c. 68.	The Finance Act 1971.	In Schedule 6, paragraph 12.
1973 c. 51.	The Finance Act 1973.	Section 28(6)(a).
1975 c. 7.	The Finance Act 1975.	Section 11.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 30(3).
		In section 36(5)(d) the words “or family”.
1976 c. 40.	The Finance Act 1976.	Section 68.
1978 c. 42.	The Finance Act 1978.	Section 24.
		In Schedule 6, paragraphs 2, 3, 5 and 6.
1980 c. 48.	The Finance Act 1980.	Section 27.
		Section 119(4).
		In Schedule 13, in paragraph 4 the words “and (3)” and “, of the proviso to section 3(4)”.

<sup>1</sup> The repeals in section 188 of and Schedule 8 to the <sup>M11</sup>Income and Corporation Taxes Act 1970 and the repeal of section 24 of the <sup>M12</sup>Finance Act 1978 do not affect any payment which by virtue of section 187(4) of the said Act of 1970 is treated as income received before 6th April 1981 and have effect subject to section 31(7) of this Act.

#### Marginal Citations

**M11** 1970 c. 10.

**M12** 1978 c. 42.

<sup>2</sup> The repeal in section 269 of the said Act of 1970 has effect in relation to interest paid in any accounting period ending on or after 1st April 1981.

<sup>3</sup> The repeals in section 36 of the <sup>M13</sup>Finance (No. 2) Act 1975 and in the <sup>M14</sup>Finance Act 1976 have effect for the year 1982–83 and subsequent years of assessment.

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#### Marginal Citations

**M13** 1975 c. 45.

**M14** 1976 c. 40.

- 4 The repeals in Schedule 6 of the <sup>M15</sup>Finance Act 1978 and Schedule 13 of the Finance Act 1980 have effect as provided in section 74(6) of this Act.

#### Marginal Citations

**M15** 1978 c. 48.

## PART VII

### STOCK RELIEF

Chapter	Short title	Extent of repeal
1975 c. 7.	The Finance Act 1975.	Section 18. Schedule 3.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 54. Schedule 10.
1976. c. 40.	The Finance Act 1976.	Section 37. Schedule 5.
1978 c. 42.	The Finance Act 1978.	In section 28(5)(b) the words “and of computing relevant income under Schedule 5 to the Finance Act 1976 (stock relief)”. In section 30, in subsection 7(e) the words “and paragraph 6 of Schedule 5 to”.
1979 c. 47.	The Finance (No. 2) Act 1979.	In Schedule 4, paragraph 7. Section 13. Schedule 3.
1980 c. 48.	The Finance Act 1980.	Section 40. Schedule 7.

These repeals do not affect periods of account other than those mentioned in section 35(1) of this Act and have effect subject to Schedule 10 to this Act.



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## PART VIII

### CAPITAL GAINS

Chapter	Short title	Extent of repeal
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 17.  Section 19(3).  In Schedule 4, in paragraphs 1(2) and 3(2), the words “and a claim” to “that Schedule”.
1980 c. 48.	The Finance Act 1980.	In section 37(3), the words from “and where” onwards.
1	The repeal of section 17 of the Capital Gains Tax Act 1979 has effect only in relation to chargeable gains accruing to trustees after 5th April 1981.	
2	the repeals in section 19 of that Act and section 37 of the Finance Act 1980 have effect in relation to acquisitions and disposals on or after 10th March 1981.	

## PART IX

### CAPITAL TRANSFER TAX

Chapter	Short title	Extent of repeal
1975 c. 7.	The Finance Act 1975.	Section 30.  Section 35.  In Schedule 4, paragraph 16(5), (6) and (7).  In Schedule 5, paragraph 5.  Part I of Schedule 8.  In Schedule 10, paragraph 7(2)(b).
1976 c. 40.	The Finance Act 1976.	Section 74.  Section 93.  Section 97.  Sections 115 and 116.  In section 117(1), paragraph (a) and in paragraph (b) the word “other” where it first occurs.
1977 c. 36.	The Finance Act 1977.	In Schedule 14, paragraph 6.  Section 51.

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1980 c. 48.	The Finance Act 1980.	In Schedule 15, paragraph 8.
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- |   |  |   |
|---|--|---|
| 1 |  | The repeals of section 30 of, and in Schedules 4 and 5 to, the Finance Act 1975 and of section 97 of, and in Schedule 14 to, the Finance Act 1976 have effect in relation to chargeable transfers made on or after 10th March 1981.   |
| 2 |  | The repeals of section 35 of, and Part I of Schedule 8 to, the Finance Act 1975 and section 74 of the Finance Act 1976 have effect in relation to transfers of value, distribution payments and capital distributions made on or after 10th March 1981; but they do not affect the operation of Part II of the said Schedule 8. |
| 3 |  | The repeal in Schedule 10 to the Finance Act 1975 has effect in relation to transfers of value made on or after 10th March 1981.  |
| 4 |  | The repeal of section 93 of the Finance Act 1976 does not affect transfers of value made before 6th April 1981.   |
| 5 |  | The repeals of sections 115 and 116, and in section 117, of the Finance Act 1976 have effect in accordance with section 106 of this Act.  |
| 6 |  | The repeal of section 51 of the Finance Act 1977 has effect in relation to property transferred into settlement on or after 10th March 1981.  |

## PART X

### PETROLEUM REVENUE TAX

Chapter	Short Title	Extent of repeal
1980 c. 1.	The Petroleum Revenue Tax Act 1980.	In the Schedule, in paragraph 4(2) the words “in relation to the later (or only) chargeable period comprised in a calendar year”.

## PART XI

### EXCHANGE CONTROL

Chapter	Short title	Extent of repeal
1971 c. 80.	The Bankings and Financial Dealings Act 1971.	In section 2(6) the definitions of “authorised dealer in foreign currency” and “authorised dealer in gold”.

## PART XII

### IRISH LAND ACTS

Chapter	Short title	Extent of repeal
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3 Edw. 7. c. 37.	The Irish Land Act 1903.	In section 33 the words “and the accounts when audited shall be laid before Parliament”.
1968 c. 13.	The National Loans Act 1968.	In section 16(9), paragraph (b) together with the word “and” preceding it.

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These repeals have effect from 1st April 1982.

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

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