



Finance Act 1988

1988 CHAPTER 39

PART I

CUSTOMS AND EXCISE

Duties of excise: rates

1 Beer, wine, made-wine and cider

- (1) In section 36 of the Alcoholic Liquor Duties Act 1979 (excise duty on beer)—
 - (a) for “£25.80” and “£0.86” there shall be substituted “£27.00” and “£0.90” respectively; and
 - (b) for the words from “at the rate” onwards there shall be substituted the words “at the rate of £0.90 per hectolitre for every degree by which the original gravity of the beer exceeds 1000 degrees”.
- (2) In sections 42(6) and 43(4) of that Act (rates of drawback), the words “but as respects” onwards shall cease to have effect.
- (3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Part I of Schedule 1 to this Act.
- (4) In section 62(1) of that Act (excise duty on cider) for “£15.80” there shall be substituted “£17.33”.
- (5) That Act shall have effect subject to the amendments set out in Part II of Schedule 1 to this Act (which relate to beverages of an alcoholic strength not exceeding 5.5 per cent.).
- (6) In this section—
 - (a) subsections (1)(a), (3) and (4) (with Part I of Schedule 1 to this Act) shall be deemed to have come into force at 6 o'clock in the evening of 15th March 1988;
 - (b) subsections (1)(b) and (2) shall come into force on 1st October 1988; and

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- (c) subsection (5) (with Part II of Schedule 1 to this Act) shall come into force on such day as the Commissioners may by order made by statutory instrument appoint;
 and different days may be appointed under paragraph (c) above for different provisions or different purposes.

2 Tobacco products

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

“TABLE

1. Cigarettes	An amount equal to 21 per cent. of the retail price plus £31.74 per thousand cigarettes.
2. Cigars	£48.79 per kilogram.
3. Hand-rolling tobacco	£51.48 per kilogram.
4. Other smoking tobacco and chewing tobacco	£24.95 per kilogram.”

- (2) This section shall be deemed to have come into force on 18th March 1988.

3 Hydrocarbon oil

- (1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979, for “£0.1938” (light oil) and “£0.1639” (heavy oil) there shall be substituted “£0.2044” and “£0.1729” respectively.
- (2) In section 13A of that Act (rebate on unleaded petrol), for “£0.0096” there shall be substituted “£0.0202”.
- (3) This section shall be deemed to have come into force at 6 o'clock in the evening of 15th March 1988.

4 Vehicles excise duty

- (1) The Vehicles (Excise) Act 1971 (“the 1971 Act”) and the Vehicles (Excise) Act (Northern Ireland) 1972 (“the 1972 Act”) shall be amended as follows.
- (2) In Part I of Schedule 1 to each Act (annual rates of duty on motor bicycles etc.), in paragraph 2 (concession for certain bicycles first licensed before 1933 or, in Northern Ireland, 1935)—
- (a) in sub-paragraph (a), for the words “for which a licence was taken out before the beginning of the year” there shall be substituted the words “constructed before”; and
 - (b) in sub-paragraph (b), for the words “224 pounds” there shall be substituted the words “101.6 kilograms”.
- (3) In Part I of Schedule 3 to each Act (annual rates of duty on tractors etc.)—
- (a) in paragraph 6 (definition of “haulage vehicle”), after the words “foregoing paragraphs” there shall be inserted the words “or paragraph 8 below”;

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- (b) at the end of sub-paragraph (2) of paragraph 8 (recovery vehicles) there shall be added “and
 - (e) any purpose prescribed for the purposes of this sub-paragraph”;
- (c) in sub-paragraph (3) of that paragraph, in paragraph (c), for the word “paragraph” there shall be substituted the word “sub-paragraph”;
- (d) after that sub-paragraph there shall be inserted—
 - “(4) A vehicle which is constructed or permanently adapted as mentioned in sub-paragraph (1) above shall not be a recovery vehicle if at any time the number of vehicles which it is used to recover exceeds a number specified by an order of the Secretary of State made for the purposes of this sub-paragraph.
 - (5) The power to make an order under sub-paragraph (4) above shall be exercisable by statutory instrument; but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”
- (4) In Part II of Schedule 4 to the 1971 Act (annual rates of duty on goods vehicles), for Tables A, A(1) and A(2) (rates for rigid goods vehicles having plated gross weight exceeding 12 tonnes) there shall be substituted the Tables set out in Part I of Schedule 2 to this Act.
- (5) The Tables set out in Part I of Schedule 2 to this Act shall also be substituted for Tables A, A(1) and A(2) in Part II of Schedule 4 to the 1972 Act, but modified for that purpose by the substitution for any reference to a plated gross weight of a reference to a relevant maximum weight.
- (6) In Part II of Schedule 5 to each Act (annual rates of duty on motor cars etc.), in column 1, for paragraph 1 (vehicles first registered before 1947) there shall be substituted—
 - “1 Vehicles constructed before 1947.”
- (7) The amendments of the 1971 and 1972 Acts set out in Part II of Schedule 2 to this Act shall have effect for the purpose of, and in connection with, establishing vehicles carrying or drawing exceptional loads as a class of vehicles chargeable with a specific duty of excise.
- (8) Section 2(1)(c) of the 1971 Act and section 2(1)(c) and (d) of the 1972 Act (seven day licences) shall cease to have effect.
- (9) Subsections (2) and (4) to (6) above shall have effect in relation to licences taken out after 15th March 1988; and subsections (7) and (8) above shall be deemed to have come into force on 1st June 1988.

Duties of excise: other provisions

5 Relief from excise duty on goods imported for testing etc

- (1) After section 11 of the Customs and Excise Duties (General Reliefs) Act 1979 there shall be inserted—

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“11A Relief from excise duty on goods imported for testing etc

(1) The Commissioners may by order provide that, in such cases and subject to such exceptions as may be specified in the order, goods imported into the United Kingdom for the sole or main purpose—

- (a) of being examined, analysed or tested; or
- (b) of being used to test other goods,

shall be relieved from excise duty chargeable on importation; and any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than it otherwise would be.

(2) An order under this section—

- (a) may make any relief for which it provides subject to conditions specified in or under the order, including conditions to be complied with after the importation of the goods to which the relief applies;
- (b) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient; and
- (c) may make different provision for different cases.

(3) In this section, references to excise duty include any additions to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.”

(2) In section 17 of that Act (statutory instruments containing orders or regulations: parliamentary procedure)—

- (a) after “7” in subsection (3) and after “4” in subsection (4) there shall be inserted “, 11A”; and
- (b) for “or 4” in subsection (5) there shall be substituted “, 4 or 11A”.

6 Remission of duty in respect of spirits used for medical or scientific purposes

(1) For section 8 of the Alcoholic Liquor Duties Act 1979 there shall be substituted—

“8 Remission of duty in respect of spirits used for medical or scientific purposes

(1) Where a person proposes to use spirits—

- (a) in the manufacture or preparation of any article recognised by the Commissioners as being an article used for medical purposes; or
- (b) for scientific purposes,

the Commissioners may, if they think fit and subject to such conditions as they see fit to impose, authorise that person to receive, and permit the delivery from warehouse to that person of, spirits for that use without payment of the duty chargeable thereon.

(2) If any person contravenes or fails to comply with any condition imposed under this section then, in addition to any other penalty he may have incurred, he shall be liable on summary conviction to a penalty of level 3 on the standard scale.”

- (2) In section 22 of that Act (drawback on British compounds and spirits of wine), subsection (7) shall cease to have effect.
- (3) In section 31(1) of that Act (restriction on delivery of immature spirits for home use), for paragraph (f) there shall be substituted—
 - “(f) to spirits delivered for medical or scientific purposes under section 8 above; or”.
- (4) In section 33 of that Act (restrictions on use of certain goods relieved from spirits duty)—
 - (a) in paragraph (c) of subsection (1), for the word “repayment” there shall be substituted the word “remission”;
 - (b) paragraph (d) of that subsection and the word “or” immediately preceding that paragraph shall cease to have effect; and
 - (c) in paragraph (b) of subsection (2), for the words “repaid or assumed to be repayable” there shall be substituted the word “remitted”.

7 Meaning of “sparkling” in relation to wine and made-wine

In Schedule 1 to the Alcoholic Liquor Duties Act 1979 (wine and made-wine), in paragraph 1(1) under the heading “Interpretation” (meaning of “sparkling”), for the words “1 bar in excess of atmospheric pressure” there shall be substituted the words “1.5 bars in excess of atmospheric pressure”.

Management

8 Disclosure of information as to imports

- (1) The Commissioners may, for the purpose of supplementing the information as to imported goods which may be made available to persons other than the Commissioners, disclose information to which this section applies to such persons as they think fit.
- (2) Such information may be so disclosed on such terms and conditions (including terms and conditions as to the payment of fees or charges to the Commissioners and the making of the information available to other persons) as the Commissioners think fit.
- (3) This section applies to information consisting of the names and addresses of persons declared as consignees in entries of imported goods, arranged by reference to such classifications of imported goods as the Commissioners think fit.
- (4) This section shall be construed as if it were contained in the Customs and Excise Management Act 1979.

9 Approval and regulation of warehouses

- (1) In section 92(2) of the Customs and Excise Management Act 1979 (approval of warehouses), for paragraph (b) there shall be substituted—
 - “(b) of such other goods as the Commissioners may allow to be warehoused—

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- (i) for exportation or for use as stores in cases where relief from or repayment of any customs duty or other payment is conditional on their exportation or use as stores; or
- (ii) for exportation or for use for a purpose referred to in a Community regulation in cases where payment of an export refund under such a regulation is conditional on their exportation or use for such a purpose.”.

(2) In section 93(2) of that Act (regulation of warehouses and warehoused goods), in paragraph (c) the words “(other than operations consisting of the mixing of spirits with wine or made-wine)” shall cease to have effect.

10 Power to search persons

(1) In subsection (1) of section 164 of the Customs and Excise Management Act 1979 (power to search persons)—

- (a) after the words “person to whom this section applies” there shall be inserted the words “(referred to in this section as “the suspect”); and
- (b) for the words from “any officer” onwards there shall be substituted the words “an officer may exercise the powers conferred by subsection (2) below and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) below”.

(2) For subsections (2) and (3) of that section there shall be substituted—

“(2) The officer may require the suspect—

- (a) to permit such a search of any article which he has with him; and
- (b) subject to subsection (3) below, to submit to such searches of his person, whether rub-down, strip or intimate,

as the officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) above without the officer informing the suspect of the effect of subsection (3) below.

(3) If the suspect is required to submit to a search of his person, he may require to be taken—

- (a) except in the case of a rub-down search, before a justice of the peace or a superior of the officer concerned; and
- (b) in the excepted case, before such a superior;

and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.

(3A) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.”

(3) After subsection (4) of that section there shall be inserted—

“(5) In this section—

“intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;

“rub-down search” means any search which is neither an intimate search nor a strip search;

“strip search” means any search which is not an intimate search but which involves the removal of an article of clothing which—

- (a) is being worn (wholly or partly) on the trunk; and
- (b) is being so worn either next to the skin or next to an article of underwear;

“suitably qualified person” means a registered medical practitioner or a registered nurse.

- (6) Notwithstanding anything in subsection (4) of section 48 of the Criminal Justice (Scotland) Act 1987 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.”

11 Time limits for arrest and proceedings

- (1) In section 138(1) of the Customs and Excise Management Act 1979 (power to arrest within 3 years of commission of offence) for the words “3 years” there shall be substituted the words “20 years”.

- (2) For subsection (1) of section 147 of that Act (proceedings to be commenced within 3 years of commission of offence) there shall be substituted—

“(1) Save as expressly provided in the customs and excise Acts and notwithstanding anything in any other enactment, the following shall apply in relation to proceedings for an offence under those Acts—

- (a) proceedings on indictment shall not be commenced later than 20 years from the date of the commission of the offence and may be commenced at any time within 20 years from that date; and
- (b) summary proceedings shall not be commenced later than 3 years from that date and, subject to that, may be commenced at any time within 6 months from the date on which sufficient evidence to warrant the proceedings came to the knowledge of the prosecuting authority;

and in this subsection “the prosecuting authority” means the Commissioners in relation to England and Wales or Northern Ireland and the Lord Advocate in relation to Scotland.”

- (3) This section has effect in relation to offences committed after the passing of this Act.

12 Punishment of offences

- (1) In the following enactments (which provide for the punishment on conviction on indictment of certain offences), namely—

- (a) sections 50(4)(b), 53(9)(b), 63(6)(b), 68(3)(b), 100(4)(b), 159(7)(b) and 170(3)(b) of the Customs and Excise Management Act 1979;
- (b) sections 10(7)(b), 13(5)(b) and 14(8)(b) of the Hydrocarbon Oil Duties Act 1979;
- (c) paragraph 16(1)(b) of Schedule 3 to the Betting and Gaming Duties Act 1981; and
- (d) paragraph 8(1)(b) of Schedule 1 to the Car Tax Act 1983,

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for the words “2 years” or “two years” there shall be substituted the words “7 years” or “seven years”, as appropriate.

- (2) For subsection (2) of section 68A of the Customs and Excise Management Act 1979 there shall be substituted—

- “(2) A person guilty of an offence under this section 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 6 months, or to both; or
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both.”

- (3) For subsections (1) and (2) of section 136 of that Act there shall be substituted—

- “(1) If any person, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—
- (a) is not lawfully payable or allowable in respect thereof; or
 - (b) is greater than the amount so payable or allowable,
- he shall be guilty of an offence under this subsection.

- (1A) If any person, without such intent as is mentioned in subsection (1) above, does any of the things there mentioned, he shall be guilty of an offence under this subsection.

- (2) A person guilty of an offence under subsection (1) 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 6 months, or to both; or
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both;

and a person guilty of an offence under subsection (1A) above shall be liable on summary conviction to a penalty of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.”;

and in subsection (3) of that section, after the words “subsection (1)” there shall be inserted the words “or (1A)”.

- (4) Paragraph 13 of Schedule 1 and paragraph 7 of Schedule 2 to the Betting and Gaming Duties Act 1981 shall each be amended as follows—

- (a) in sub-paragraph (3), in paragraph (a), the words from “or, with intent” to “material particular” shall cease to have effect;
- (b) after that paragraph there shall be inserted—
 - “(aa) in that connection, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or”;
- (c) in paragraph (ii) of that sub-paragraph, for the words “two years” there shall be substituted the words “the maximum term”; and
- (d) after that sub-paragraph there shall be inserted—

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“(4) In sub-paragraph (3) above, “the maximum term” means two years in the case of an offence under paragraph (a) and seven years in the case of an offence under paragraph (aa) or (b) of that sub-paragraph.”

(5) Paragraph 8 of Schedule 1 to the Car Tax Act 1983 shall be amended as follows—

- (a) in paragraph (ii) of sub-paragraph (2), for the words “two years” there shall be substituted the words “the maximum term”; and
- (b) after that sub-paragraph there shall be inserted—

“(2A) In sub-paragraph (2) above, “the maximum term” means seven years in the case of an offence under paragraph (a) or (c) and two years in the case of an offence under paragraph (b) of that sub-paragraph.”

(6) This section has effect in relation to offences committed after the passing of this Act.