



Finance Act 2015

2015 CHAPTER 11

PART 2

EXCISE DUTIES AND OTHER TAXES

Tobacco

55 Rates of tobacco products duty

(1) For the table in Schedule 1 to TPDA 1979 substitute—

“1. Cigarettes	An amount equal to 16.5 per cent of the retail price plus £189.49 per thousand cigarettes
2. Cigars	£236.37 per kilogram
3. Hand-rolling tobacco	£185.74 per kilogram
4. Other smoking tobacco and chewing tobacco	£103.91 per kilogram”.

(2) The amendment made by this section is treated as having come into force at 6 pm on 18 March 2015.

56 Excise duty on tobacco: anti-forestalling restrictions

After section 6 of TPDA 1979 (alteration of rates of duty) insert—

“6A Anti-forestalling notices in connection with anticipated alteration of rate of duty

(1) If the Commissioners consider that an alteration to a rate of duty charged under section 2 on tobacco products may be made (whether under section 6 or otherwise), they may publish a notice under this section (an “anti-forestalling notice”).

Status: This is the original version (as it was originally enacted).

- (2) An anti-forestalling notice—
- (a) must specify a period of up to 3 months (“the controlled period”),
 - (b) may impose such restrictions (“anti-forestalling restrictions”), as to the quantities of the tobacco products that may during the controlled period be removed for home use, as the Commissioners consider to be reasonable for the purpose of protecting the public revenue,
 - (c) may make provision for, and in connection with, the controlled period coming to an end early (including provision modifying an anti-forestalling restriction in such circumstances),
 - (d) may make provision for the removal of tobacco products for home use to be disregarded for the purposes of one or more anti-forestalling restrictions in certain circumstances, and
 - (e) may make different provision for different cases.
- (3) The anti-forestalling restrictions that may be imposed include, in particular—
- (a) restrictions as to the total quantity of the tobacco products, or of the tobacco products of a particular description, that may, during the controlled period, be removed for home use, and
 - (b) restrictions as to the quantity of the tobacco products, or the tobacco products of a particular description, that may be removed for home use during any month, or any period of two weeks, in the controlled period.

This is subject to subsections (4) and (5).

- (4) An anti-forestalling notice may not restrict a person, during the controlled period, to removing for home use a total quantity of the tobacco products, or of the tobacco products of a particular description, that is less than 80% of—

$$\frac{\text{TPY}}{365} \times \text{DCP}$$

where—

TPY is the total quantity of the tobacco products, or (as the case may be) of the tobacco products of a particular description, removed for home use by the person in the period of 12 months ending with the third month before the month in which the controlled period begins, and

DCP is the number of days in the controlled period.

- (5) An anti-forestalling notice may not restrict a person, in any month of the controlled period, to removing for home use less than 30% of the total quantity of the tobacco products, or of the tobacco products of a particular description, that could, under the anti-forestalling restrictions imposed by the notice, be removed for home use during the whole controlled period.
- (6) If, before the end of the controlled period, it appears to the Commissioners that the rate of duty—
- (a) will not be altered during the controlled period, but
 - (b) may be altered within a month of the end of the controlled period,
- the Commissioners may publish an extension notice.
- (7) An extension notice may—
- (a) extend the controlled period by up to one month, and

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- (b) in accordance with subsections (2) to (5), make such other modifications of the anti-forestalling notice as the Commissioners think appropriate in consequence of the extension.
- (8) The Commissioners may vary or revoke an anti-forestalling notice—
 - (a) as it applies generally, or
 - (b) if the Commissioners consider that exceptional circumstances justify doing so, in relation to a particular person.
- (9) This section does not affect the Commissioners' powers—
 - (a) under section 128 of the Customs and Excise Management Act 1979 (restriction of delivery of goods), or
 - (b) to make regulations under section 7 of this Act in relation to periods specified under that section of that Act.

6B Anti-forestalling notices: sanctions

- (1) This section applies if a person fails to comply with an anti-forestalling notice published under section 6A by, on one or more occasions, removing tobacco products for home use during the controlled period in contravention of an anti-forestalling restriction.
- (2) The failure to comply attracts a penalty under section 9 of the Finance Act 1994 (civil penalties) of an amount determined in accordance with subsection (3) (rather than that section).
- (3) The person is liable to a penalty of—
 - (a) if the person has given an admission notice, 150% of the lost duty, and
 - (b) otherwise, 200% of the lost duty.
- (4) An “admission notice” is a notice—
 - (a) in which the person admits that the person—
 - (i) has failed to comply with the anti-forestalling notice, and
 - (ii) is liable to a penalty determined in accordance with subsection (3), and
 - (b) that is in such form, and that provides such information, as the Commissioners may specify.
- (5) An admission notice cannot be given if, at any time in the period of 3 years ending with the day before the controlled period, the person has given an admission notice in relation to a failure to comply with another anti-forestalling notice.
- (6) An admission notice cannot be given—
 - (a) at a time when the person has reason to believe that Her Majesty's Revenue and Customs have discovered, or are about to discover, that the person has failed to comply with the anti-forestalling notice, or
 - (b) after the end of the controlled period.
- (7) The “lost duty” is the amount (if any) by which the duty that would have been charged under section 2 on the excess tobacco products if they had, immediately after the end of the controlled period, been removed for home use exceeds the duty that was charged under that section on those tobacco products.

Status: This is the original version (as it was originally enacted).

- (8) The “excess tobacco products” are the tobacco products mentioned in subsection (1) that the person removed, for home use, in contravention of an anti-forestalling restriction.
- (9) See section 6A for the meaning of “anti-forestalling notice”, “anti-forestalling restriction” and “controlled period”.