



Finance Act 1978

1978 CHAPTER 42

PART I

CUSTOMS AND EXCISE

1 Tobacco products duty

- (1) In the case of any cigarette having a tar yield of not less than 20 mg. the Table in section 4(1) of the Finance Act 1976 (excise duty on tobacco products) shall have effect as if the rate of duty in paragraph 1 were increased by £2.25 per thousand cigarettes.
- (2) The Commissioners may make regulations—
 - (a) prescribing how the tar yield of cigarettes is to be determined for the purposes of this section;
 - (b) without prejudice to section 4(2) of the said Act of 1976, enabling the whole or any part of the additional duty imposed by this section to be remitted or repaid in such cases as may be specified in the regulations or determined by the Commissioners and subject to such conditions as they see fit to impose.
- (3) For the purposes of section 6 of the said Act of 1976 (power to alter rates of duty) the increase specified in subsection (1) above shall be treated as a rate of duty separate from that applying apart from the increase; and in section 2(2) of the Finance Act 1977 (calculation of duty in case of cigarettes more than 9 cm. long) for the words " For the purposes of paragraph 1 in the Table in the said section 4(1) " there shall be substituted the words " For the purposes of the references to a thousand cigarettes in paragraph 1 in the Table in section 4(1) of the Finance Act 1976 and in section 1(1) of the Finance Act 1978 ".
- (4) This section shall come into force on 4th September 1978.

Status: This is the original version (as it was originally enacted).

2 Repayment of excise duty on beer etc.

(1) The Commissioners may by regulations provide for excise duty charged on liquor to which this subsection applies and which is used as an ingredient in the production or manufacture of—

- (a) any beverage of an alcoholic strength not exceeding 2° of proof; or
- (b) any such article (other than a beverage) as the Commissioners may determine having regard to the alcoholic content thereof,

to be repaid subject to such conditions as may be imposed by or under the regulations.

This subsection applies to beer and to wine, made-wine and cider imported into the United Kingdom.

(2) The Commissioners may by regulations provide for excise duty charged on imported wine which is converted into vinegar to be repaid subject to such conditions as may be imposed by or under the regulations.

3 Warehousing regulations

In section 16(2) of the Finance (No. 2) Act 1975 (warehousing regulations) after paragraph (d) there shall be inserted—

- “(e) enabling the Commissioners to allow goods to be removed from warehouse without payment of duty in such circumstances and subject to such conditions as they may determine ;”.

4 Control of movement of goods

(1) The Commissioners may by regulations impose conditions and restrictions as respects—

- (a) the movement of imported goods between the place of importation and a place approved by the Commissioners for the clearance out of charge of such goods; and
- (b) the movement of goods intended for export between a place approved by the Commissioners for the examination of such goods and the place of exportation.

(2) The regulations may in particular—

- (a) require the goods to be moved within such period and by such route as may be specified by or under the regulations;
- (b) require the goods to be carried in a vehicle or container complying with such requirements and secured in such manner as may be so specified ; and
- (c) prohibit, except in such circumstances as may be so specified, any unloading or loading of the vehicle or container or any interference with its security.

(3) If any person contravenes or fails to comply with any regulation or any requirement imposed by or under the regulations, that person and the person then in charge of the goods shall each be liable to a penalty of £500 and any goods in respect of which the offence was committed shall be liable to forfeiture.

5 Penalty for removing seals etc.

- (1) Where, in pursuance of any power conferred by the customs and excise Acts or of any requirement imposed by or under those Acts, a seal, lock or mark is used to secure or identify any goods for any of the purposes of those Acts and—
- (a) at any time while the goods are in the United Kingdom or within the limits of any port or on passage between ports in the United Kingdom, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person ; or
 - (b) at any time before the seal, lock or mark is lawfully removed, any of the goods are wilfully removed by any person,
- that person and the person then in charge of the goods shall each be liable to a penalty of £500 ; and for the purposes of this subsection goods in a ship or aircraft shall be deemed to be in the charge of the master of the ship or commander of the aircraft.
- (2) Where, in pursuance of any Community requirement or practice which relates to the movement of goods between countries or of any international agreement to which the United Kingdom is a party and which so relates,—
- (a) a seal, lock or mark is used (whether in the United Kingdom or elsewhere) to secure or identify any goods for customs or excise purposes ; and
 - (b) at any time while the goods are in the United Kingdom, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person,
- that person and the person then in charge of the goods shall each be liable to a penalty of £500.
- (3) This section shall be treated for all purposes as included in Part II of the Customs and Excise Act 1952 and section 70 of that Act, which is superseded by this section, shall cease to have effect.

6 Anti-dumping measures on ECSC products

- (1) In relation to any product covered by the ECSC treaty, the Secretary of State may by order make such provision as appears to him to be appropriate for the purpose of giving effect to any Recommendation or other Community obligation arising under that treaty and relating to the imposition, amendment, suspension, revocation or annulment of anti-dumping measures, that is to say, measures for affording protection against dumping or the granting of bounties or subsidies by countries which are not members of the Coal and Steel Community.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, so far as may be necessary for giving effect to a Community obligation, an order under that subsection may, in circumstances specified in the order,—
- (a) require the provision of security of an amount determined under the order by way of provisional duty ;
 - (b) provide for the collection of the whole or a particular proportion of any amount so secured ;
 - (c) charge a duty of customs ; and
 - (d) make provisions of the order applicable to goods imported into the United Kingdom or another member State before the order comes into force;
- and the power to make an order under that subsection includes power to vary or revoke an order previously made in the exercise of that power and shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

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

- (3) Where the application or amount of any charge imposed by an order under subsection (1) above depends on some factor other than the country of origin, the Commissioners may require the importer of any goods to state such facts as they may think necessary in order to determine the duty chargeable on those goods; and if any facts so required are not stated, the duty chargeable shall be determined on the basis that the facts are such as the Commissioners may determine.
- (4) Section 9 of the Finance Act 1961 (the regulator) shall not apply to any duty chargeable on goods by virtue of subsection (1) above, and any such duty shall be in addition to any other duty of customs for the time being chargeable on those goods.
- (5) Subject to subsections (6) and (7) below, after the passing of this Act, the powers conferred on the Secretary of State by the Customs Duties (Dumping and Subsidies) Act 1969 (in the following provisions of this section referred to as "the 1969 Act") shall not be exercisable except in relation to products covered by the ECSC Treaty and then only in cases where the imposition of a duty under that Act to protect an industry within the United Kingdom is compatible with Community obligations; and, to the limited extent that it remains operative by virtue of this subsection, the 1969 Act shall have effect—
- (a) subject to the amendments in Schedule 1 to this Act; and
 - (b) subject to such amendments as the Secretary of State may specify by order made by statutory instrument, being amendments which appear to him to be necessary or desirable to take account of any international agreement to which the United Kingdom is a party.
- (6) No order shall be made under subsection (5) above unless a draft of it has been laid before Parliament and approved by a resolution of each House, and the power to make such an order—
- (a) does not extend to the provisions of sections 1(1) and (3), 7(1), 8, 9(1) and (2) and 10 of the 1969 Act (which relate to the charge and levy of duty); and
 - (b) is without prejudice to the power to make amendments of enactments under section 2 (2) of the European Communities Act 1972 (for the purpose of implementing Community obligations).
- (7) Nothing in subsection (5) above shall affect—
- (a) the continued operation of any order made under the 1969 Act which is in force at the passing of this Act (notwithstanding that it may relate to goods which are not products covered by the ECSC Treaty); or
 - (b) the exercise, in relation to any such order as is referred to in paragraph (a) above, of any power conferred by section 10(3) or section 15(4) of the 1969 Act to vary or remove a duty having effect by virtue of the order or to vary or revoke the order itself.
- (8) After subsection (6) of section 5 of the European Communities Act 1972 (power to make provision by regulations as regards reliefs from import duties) there shall be inserted the following subsection—
- “(6A) The reference in subsection (6) above to import duties includes a reference—
- (a) to duties charged by an order under subsection (1) of section 6 of the Finance Act 1978; and
 - (b) to duties under the Customs Duties (Dumping and Subsidies) Act 1969, as that Act has effect by virtue of subsection (5) of that section”;

and any reference to import duties in regulations made under the said subsection (6) before as well as after the passing of this Act shall be construed accordingly.

- (9) So much of Part I of Schedule 3 to the European Communities Act 1972 as provides for the repeal of the 1969 Act from a date to be appointed by the Secretary of State shall cease to have effect.

7 Gaming licence duty in Scotland

- (1) For the purpose of determining the amount of the duty chargeable under section 14 of the Betting and Gaming Duties Act 1972 on a gaming licence in respect of premises in Scotland for a period beginning after 31st March 1978 the rateable value of any lands and heritages shall be ascertained in accordance with the following provisions of this section in any case where a rateable value is shown for them in the valuation roll for the time being in force and either a lower value or no value was shown for them in the valuation roll in force on 31st March 1978.
- (2) Where the rateable value of any lands and heritages falls to be ascertained in accordance with this section, then—
- (a) if a rateable value was shown for them in the valuation roll in force on 31st March 1978, their rateable value shall be taken to be the value so shown, but subject to paragraph (b) below;
 - (b) if, since the value so shown was entered in that valuation roll, there has been a material change of circumstances affecting the value of the lands and heritages, their rateable value shall be taken to be the value determined under this section as the rateable value which would have been shown for them in that valuation roll if the change had been given effect to in that roll;
 - (c) if no value was shown for the lands and heritages in the valuation roll in force on 31st March 1978, their rateable value shall be taken to be the value determined under this section as the value that would have been so shown if, at the time of the valuation for the purposes of that roll, the premises in respect of which the licence is to be granted had been in existence and all relevant circumstances had been the same as at the time when the value of the lands and heritages is determined under this section.
- (3) Any determination under this section shall be made by the Commissioners after consultation with the assessor appointed under the Local Government (Scotland) Act 1973 for the valuation area concerned; but the person to whom the licence is to be or has been granted may, by notice in writing given to the Commissioners not later than four weeks after the date on which the determination is notified to him, require the determination to be referred to the arbitration of a referee appointed by the Lord President of the Court of Session, the decision of which referee shall be final and conclusive.
- (4) A person appointed as a referee under subsection (3) above shall not be an officer of any government department.
- (5) If the amount of duty chargeable is reduced in consequence of a decision of a referee appointed under this section, any amount overpaid shall be repaid.
- (6) In this section " material change of circumstances " has the meaning assigned to it by section 37(1) of the Local Government (Scotland) Act 1975.

8 Vehicles excise duty: Great Britain

(1) For section 7(2) of the Vehicles (Excise) Act 1971 there shall be substituted—

“(2) A mechanically propelled vehicle shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of a person (' a disabled person') suffering from a physical defect or disability or by reason of its being kept for such use if—

- (a) it is registered under this Act in the name of that person; and
- (b) he has obtained, or is eligible for, a grant under paragraph 2 of Schedule 2 to the National Health Service Act 1977 in relation to that vehicle or is in receipt of a mobility allowance; and
- (c) no other vehicle registered in his name under this Act is exempted from duty under this subsection or section 7 of the Finance Act 1971 ;

and for the purposes of this subsection a vehicle shall be deemed to be registered in the name of a disabled person in receipt of a mobility allowance if it is registered in the name of a person appointed pursuant to regulations under the Social Security Act 1975 to exercise any of his rights or powers or in the name of a person nominated for the purposes of this subsection by the disabled person or by a person so appointed.”

(2) So much of section 13 of the Finance Act 1976 as excludes a person entitled to a mobility allowance from the exemption from duty conferred by section 7 of the Finance Act 1971 shall cease to have effect.

(3) In section 7 of the Finance Act 1971 after paragraph (c) there shall be inserted the words “and

- (d) no vehicle exempted from duty under section 7(2) of the Vehicles (Excise) Act 1971 is (or by virtue of that provision is deemed to be) registered in his name under that Act.”

(4) Section 26(1)(c) of the Vehicles (Excise) Act 1971 (offences in respect of licence etc.) shall apply also to any document in the form of a licence which in pursuance of regulations made under that Act is issued in respect of a vehicle exempted from duty under the provisions mentioned in subsections (1) and (3) above ; and section 26(2) (a) of that Act (false declarations in connection with applications for a licence) shall apply also in relation to any declaration required by any such regulations to be made in respect of any vehicle so exempted.

(5) This section shall come into force on 1st December 1978.

9 Vehicles excise duty: Northern Ireland

(1) For section 7(2) of the Vehicles (Excise) Act (Northern Ireland) 1972 there shall be substituted—

“(2) A mechanically propelled vehicle shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of a person (' a disabled person') suffering from a physical defect or disability or by reason of its being kept for such use if—

- (a) it is registered under this Act in the name of that person; and
- (b) he has obtained, or is eligible for, a grant under Article 30(3) of the Health and Personal Social Services (Northern Ireland) Order 1972 in relation to that vehicle or is in receipt of a mobility allowance ; and

- (c) no other vehicle registered in his name under this Act is exempted from duty under this subsection or subsection (2A);
and for the purposes of this subsection a vehicle shall be deemed to be registered in the name of a disabled person in receipt of a mobility allowance if it is registered in the name of a person appointed pursuant to regulations under the Social Security (Northern Ireland) Act 1975 to exercise any of his rights or powers or in the name of a person nominated for the purposes of this subsection by the disabled person or by a person so appointed.”.
- (2) So much of section 13 of the Finance Act 1976 as excludes a person entitled to a mobility allowance from the exemption from duty conferred by section 7(2A) of the said Act of 1972 shall cease to have effect.
- (3) In the said section 7(2A) after paragraph (b) there shall be inserted the words “and
(c) no vehicle exempted from duty under subsection (2) is (or by virtue of that subsection is deemed to be) registered in his name under this Act.”.
- (4) Section 26(c) of the said Act of 1972 (offences in respect of licence etc.) shall apply also to any document in the form of a licence which in pursuance of regulations made under that Act is issued in respect of a vehicle exempted from duty under section 7(2) or (2A) of that Act.
- (5) This section shall come into force on 1st December 1978.

10 Continuation of powers under Finance Act 1961 s. 9

The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by virtue of section 13 of the Finance Act 1977, was extended until the end of August 1978) shall extend until the end of August 1979 or such later date as Parliament may hereafter determine.