



# Alcoholic Liquor Duties Act 1979

## 1979 CHAPTER 4

### PART II

#### SPIRITS

##### *General provisions relating to spirits*

#### **26 Importation and exportation of spirits**

- (1) Save as permitted by the Commissioners, spirits shall not be imported—
  - (a) in any ship of less than 40 tons register; or
  - (b) in containers of a capacity of less than 9 gallons each unless in bottles properly packed in cases.
- (2) Save as permitted by the Commissioners, spirits other than bottled spirits shall not be exported, or be removed to the Isle of Man, or be brought to any place or be waterborne for exportation or for removal to the Isle of Man, in containers holding less than 9 gallons each.
- (3) Any spirits imported, exported, removed, brought or water-borne contrary to this section shall be liable to forfeiture.
- (4) Where any ship is or has been, in the case of a British ship, within 12 or, in any other case, within 3 nautical miles of the coast of the United Kingdom while having on board or attached in any manner thereto any spirits in containers other than such as are permitted by or under subsection (1) of this section, the ship and any such spirits found therein shall be liable to forfeiture.
- (5) For the purposes of subsection (1) above, all hovercraft (of whatever size) shall be treated as ships of less than 40 tons register and subsection (4) above shall apply as if any reference to a ship included a reference to a hovercraft.

**27 Spirits consignment and spirits advice notes**

- (1) Where any spirits are sent out from the stock of a rectifier or compounder or, otherwise than in the circumstances' specified in subsection (2) below, are sent out from the stock of a wholesaler or retailer, the person sending them out shall, subject to any dispensation granted by the Commissioners, send to the person to whom they are sent a spirits consignment note, and shall send it either with the spirits or so that it is either delivered or posted on the day on which the spirits are sent out.
- (2) The circumstances referred to in subsection (1) above in relation to a wholesaler or retailer are that—
  - (a) in the case of spirits sent out from the stock of a wholesaler, the spirits are sent out in a quantity not exceeding 1 gallon at a time and are sold by him by retail to a person who is not a wholesaler or retailer of spirits; and
  - (b) in the case of spirits sent out from the stock of a retailer, the spirits are sent out in a quantity not exceeding 1 gallon of the same denomination at a time for one person.
- (3) The person by whom any spirits—
  - (a) are sent out from a distillery; or
  - (b) are removed from a warehouse ; or
  - (c) not being spirits to which the requirement imposed by subsection (1) above to send a spirits consignment note applies, are otherwise removed from any place in the United Kingdom to any other such place in a quantity exceeding 1 gallon of the same denomination at a time for any one person,
 shall, subject to any dispensation granted by the Commissioners, send to the person to whom the spirits are to be delivered a spirits advice note, and shall send that note either with the spirits or so that it is either delivered or posted on the day on which the spirits are sent out or removed.
- (4) A distiller shall not send out from his distillery, or, save as permitted by the Commissioners in the case of samples, remove from a distiller's warehouse associated with his distillery, any spirits in a quantity of less than 9 gallons.
- (5) In this Act—
 

" spirits advice note " means a document containing such particulars as the Commissioners may direct;

" spirits consignment note " means a consignment note or similar document containing such particulars as the Commissioners may direct.

**28 Regulations about the keeping and production of spirits advice and spirits consignment notes, etc.**

- (1) As respects spirits in the case of which a requirement is imposed by this Act that a spirits advice note or a spirits consignment note shall be sent in connection with their removal, the Commissioners may make regulations requiring the keeping and production of such notes and copies thereof, and of stock books.
- (2) If any person contravenes or fails to comply with any regulation made under this section he shall, except in the circumstances specified in subsection (3) below, be liable on summary conviction to a penalty of £200.
- (3) No liability shall be incurred under subsection (2) above for failure to keep or produce a spirits advice note, spirits consignment note or copy of such a note in accordance

with any such regulation if it is proved that the note or, as the case may be, the note and any copy thereof was or were lost or destroyed by accident.

## **29 Offences in connection with spirits advice and spirits consignment notes**

- (1) Where a spirits advice note or a spirits consignment note is required by this Act in connection with the removal of any spirits, then if any person—
- (a) sends out or causes to be sent out, any spirits without the proper spirits advice note or spirits consignment note being duly sent; or
  - (b) requests, obtains or uses, or causes or permits to be requested, obtained or used, a spirits advice note or a spirits consignment note for any purpose otherwise than in accordance with the terms thereof; or
  - (c) in any manner uses or causes or permits the use of any spirits advice note or spirits consignment note so that the taking or checking of any account or the making of any examination by an officer is or may be frustrated or evaded; or
  - (d) produces or causes or permits the production of any spirits advice note or spirits consignment note to an officer as having been received with or in connection with any spirits other than those to which it relates,
- he shall, in addition to any other punishment to which he may have become liable, be liable on summary conviction to a penalty of three times the value of any spirits in respect of which the offence was committed or £100, whichever is the greater.

- (2) Any spirits—
- (a) in connection with the removal of which a spirits advice note is required by this Act which are found in the course of being, or to have been, sent out, removed or received—
    - (i) without a proper spirits advice note having been duly sent, or
    - (ii) in contravention of section 27(4) above ; or
  - (b) in the case of which an altered or untrue spirits advice note has been sent,
- shall be liable to forfeiture, and any person in whose possession any such spirits are found shall be liable on summary conviction to a penalty of three times the value of the goods or £100, whichever is the greater.

## **30 Special provisions as to spirits advice and spirits consignment notes**

- (1) If in any proceedings under section 29 above, any question arises as to the accuracy of the description of any spirits in a spirits advice note or spirits consignment note—
- (a) the burden of proof that the spirits correspond with the description shall lie on the person claiming that the spirits so correspond, who shall furnish that proof by the evidence of two persons competent to decide by examination of the spirits ;
  - (b) the description of spirits shall not be deemed to be inaccurate by reason only of the fact that they are of a strength differing from that specified in the spirits advice note or spirits consignment note where the actual strength is not more than 1° of proof above or 2° of proof below that so specified.
- (2) If a distiller, rectifier or compounder or a wholesaler or retailer of spirits is convicted of an offence in relation to spirits under section 29 above, the Commissioners may revoke his licence and refuse to re-grant him a licence during the remainder of the period for which the revoked licence would have been in force.

**31 Restriction on delivery of immature spirits for home use**

- (1) No spirits shall be delivered for home use unless they have been warehoused for a period of at least 3 years or, in the case of rum, at least 2 years. But this subsection shall not apply—
- (a) to spirits delivered for any purpose for which they may for the time being be delivered without payment of duty; or
  - (b) to spirits delivered for methylation under section 9 above or for use in art or manufacture under section 10 above; or
  - (c) to spirits which have been warehoused on drawback ; or
  - (d) to mixtures, compounds or preparations charged with duty on importation in respect of the spirits contained in them or used in their preparation or manufacture; or
  - (e) subject to such conditions as the Commissioners may by regulations impose, to spirits delivered to a rectifier or compounder, a manufacturing chemist or a manufacturer of perfumes for use in his manufacture, or to such other persons for such purposes as the Commissioners see fit to authorise for the purposes of this paragraph; or
  - (f) subject to such conditions as aforesaid, to spirits delivered for scientific purposes under section 8 above; or
  - (g) subject to such conditions as aforesaid, to imported Geneva, perfumed spirits or liqueurs ; or
  - (h) to imported compounded spirits of any kind specified for the purposes of this paragraph in regulations made by the Commissioners; or
  - (i) to the supply of spirits of wine for the purpose of making medicines to registered medical practitioners, hospitals and persons entitled to carry on the business of a chemist and druggist; or (f) to spirits compounded in warehouse in pursuance of warehousing regulations.
- (2) For the purposes of this section, in the case of imported spirits, any period which is shown to the satisfaction of the Commissioners to have elapsed between the dates of manufacture and importation shall be treated as a period during which the spirits have been warehoused.
- (3) If any person procures or attempts to procure the delivery of spirits in contravention of this section or contravenes or fails to comply with any regulation made thereunder, he shall be liable on summary conviction to a penalty of £100, and any spirits in respect of which the offence was committed shall be liable to forfeiture.

**32 Restriction on transfer of British spirits in warehouse**

- (1) No spirits in a distiller's warehouse may be transferred to a purchaser until the distiller has given such security for the payment of duty as the Commissioners may require, and any spirits so transferred shall not again be transferred while those spirits remain in that warehouse.
- (2) Spirits manufactured in the United Kingdom chargeable with duty which has not been paid which are in any warehouse other than a distiller's warehouse shall not be transferred into the name of a purchaser until the purchaser produces to the officer in charge of the warehouse a written order for the delivery of the spirits signed by the person in whose name they are warehoused and countersigned by the occupier of the warehouse or a servant of his acting for him at the warehouse.

- (3) Any spirits duly transferred in accordance with the provisions of this section shall be discharged from any liability under the Customs and Excise Acts 1979 in respect of the nonpayment of any duty or penalty by the transferor.

### **33 Restrictions on use of certain goods relieved from spirits duty**

- (1) If any person uses otherwise than for a medical or scientific purpose—
- (a) any mixture which has on importation been relieved to any extent of the duty chargeable in respect of the spirits contained in it or used in its preparation or manufacture by reason of being a mixture which is recognised by the Commissioners as being used for medical purposes; or
  - (b) any article containing spirits which were exempted from duty under section 7 above ; or
  - (c) any article manufactured or prepared from spirits in respect of which repayment of duty has been obtained under section 8 above ; or
  - (d) any article in respect of which he has paid or agreed to pay a price fixed on the assumption that a repayment of duty will be obtained as mentioned in paragraph (c) above,

he shall, unless he has complied with the requirements specified in subsection (2) below, be liable on summary conviction to a penalty of three times the value of the mixture or article so used or £100, whichever is the greater, and any article in his possession in the preparation or manufacture of which the mixture or article has been used shall be liable to forfeiture.

- (2) The requirements with which a person must comply to avoid incurring liability under subsection (1) above are that—
- (a) he must obtain the consent of the Commissioners in writing to the use of the mixture or article otherwise than for a medical or scientific purpose; and
  - (b) he must pay to the Commissioners an amount equal to the difference between the duty charged on the mixture and the duty which would have been chargeable if it had not been a mixture recognised as mentioned in subsection (1)(a) above, or to the amount of the duty repaid or assumed to be repayable, as the case may be.
- (3) The Commissioners may make regulations for the purpose of enforcing the provisions of this section.
- (4) Regulations under subsection (3) above may in particular require any person carrying on any trade in which spirits, or mixtures or articles containing or prepared or manufactured with spirits, are in the opinion of the Commissioners likely to be or to have been used—
- (a) to give and verify particulars of the materials which he is using or has used and of any such mixtures or articles which he has sold ; and
  - (b) to produce any books of account or other documents of whatever nature relating to any such materials, mixtures or articles.
- (5) If any person contravenes or fails to comply with any regulation made under subsection (3) above he shall be liable on summary conviction to a penalty of £100.
- (6) In this section "mixture" includes a preparation and a compound, and any reference to a mixture or article includes a reference to any part thereof.

**34 Prohibition of grogging**

- (1) No person shall—
  - (a) subject any cask to any process for the purpose of extracting any spirits absorbed in the wood thereof; or
  - (b) have on his premises any cask which is being subjected to any such process or any spirits extracted from the wood of any cask.
- (2) Any person contravening any provision of this section shall be liable on summary conviction to a penalty of £50.
- (3) All spirits extracted contrary to this section and every cask which is being subjected to any such process or which, being upon premises upon which spirits so extracted are found, has been subjected to any such process shall be liable to forfeiture.

**35 Returns as to importation, manufacture, sale or use of alcohols**

- (1) The Commissioners may, in so far as it seems to them expedient so to do for the purposes of protecting the revenue arising from the duties on spirits, make regulations requiring importers, manufacturers, sellers or users of—
  - (a) the following alcohols, that is to say, methyl, propyl, butyl or amyl alcohol, or
  - (b) any of the isomeric forms of such alcohols,to furnish returns containing such particulars as may be prescribed by the regulations in respect of the importation, manufacture, sale or use by any such persons of any of the articles specified in paragraphs (a) and (b) above.
- (2) Provision may be made by any regulations under this section for requiring persons by whom and premises on which any such articles are manufactured to be registered.
- (3) If any person contravenes or fails to comply with any regulation made under this section he shall be liable on summary conviction to a penalty of £25.