



# Alcoholic Liquor Duties Act 1979

## 1979 CHAPTER 4

### PART VI

#### GENERAL CONTROL PROVISIONS

##### *Sale of dutiable alcoholic liquors*

#### **65 Excise licence for dealing wholesale in certain alcoholic liquors**

- (1) Subject to the provisions of this section, no person shall deal wholesale in any of the alcoholic liquors to which this section applies, that is to say, spirits, beer, wine and made-wine, unless he holds an excise licence for that purpose under this section in respect of that liquor.
- (2) A licence granted under this section shall expire on the 30th June next after it is granted.
- (3) On any licence granted under this section there shall be charged an excise licence duty of £5.
- (4) Subject in the case of a distiller to section 27(4) above, any alcoholic liquor to which this section applies which is the produce of a licensed manufacturer may be dealt in wholesale without an excise licence under this section—
  - (a) at the premises where it is manufactured ; or
  - (b) if the liquor is supplied to the purchaser direct from the premises where it is manufactured, at any other place by the manufacturer or a servant or agent of his.

In this subsection " licensed manufacturer " means a distiller, rectifier, compounder, brewer for sale or licensed producer of wine or of made-wine.

- (5) Without prejudice to subsection (4) above, an excise licence under this section as a wholesale dealer in spirits shall not, except with the permission of the Commissioners and subject to such conditions as they see fit to impose, be granted to a distiller in respect of any premises within 2 miles of his distillery.

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- (6) A person holding a licence under this section in respect of wine may deal wholesale at his licensed premises in made-wine as well as wine without taking out a further licence under this section.
- (7) If, save as permitted by this section, any person deals wholesale in any alcoholic liquor to which this section applies otherwise than under and in accordance with a licence under this Act so authorising him he shall be liable on summary conviction to a penalty of £100.
- (8) For the purposes of this section, dealing wholesale 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, 2 gallons or 1 case; or
  - (b) in the case of beer, 4 gallons or 2 cases.

#### **66 Excise licence not required for sale of certain alcoholic liquors**

- (1) Subject to subsection (2) below, an excise licence shall not be required for the sale wholesale of—
  - (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 2° of proof ;
  - (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.
- (2) Subsection (1)(a) above shall not apply to Northern Ireland.

#### **67 Power to regulate keeping of dutiable alcoholic liquors by wholesalers and retailers**

- (1) The Commissioners may, with a view to the protection of the revenue, make regulations regulating the keeping of spirits, beer, wine, made-wine or cider respectively by wholesalers and retailers.
- (2) 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 £100, and any liquor, container or utensil in respect of which the offence was committed shall be liable to forfeiture.

#### **68 Penalty for excess in stock of wholesaler or retailer of spirits**

If at any time on the taking of an account by an officer of the spirits in the stock or possession of a wholesaler or retailer of spirits the quantity of those spirits computed at proof is found to exceed the quantity which ought to be in his possession according to any stock book required under this Act to be kept by the wholesaler or retailer, the excess shall be liable to forfeiture and the wholesaler or retailer shall be liable on summary conviction to a penalty of double the duty on a like quantity of plain spirits at proof charged at the highest rate.

## **69 Miscellaneous provisions as to wholesalers and retailers of spirits**

- (1) A wholesaler of spirits shall not carry on his business on any premises communicating otherwise than by a public roadway with any premises entered or used by a distiller or rectifier.
- (2) Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose, a retailer of spirits shall not—
  - (a) carry on his business on any premises which are entered or used by a distiller or rectifier or which communicate otherwise than by a public roadway with any such premises; or
  - (b) be concerned or interested in the business of a distiller or rectifier carried on upon any premises within 2 miles of any premises at which he sells spirits by retail.
- (3) If any person contravenes or fails to comply with subsection (1) or (2) above or any condition imposed under subsection (2) above, he shall be liable on summary conviction to a penalty of £200.
- (4) A retailer of spirits shall not, unless he is also a wholesaler of spirits, sell or send out spirits to a rectifier or to a wholesaler or retailer of spirits, nor shall he buy or receive spirits from another such retailer who is not also such a wholesaler; and if he contravenes or fails to comply with this subsection he shall be liable on summary conviction to a penalty of £50.

## **70 General offences in connection with sale of spirits**

- (1) If any person hawks spirits or, save as permitted by the Customs and Excise Acts 1979 or some other Act, sells or exposes for sale any spirits otherwise than on premises in respect of which he holds an excise licence as a wholesaler of spirits or a justice's licence (or in Scotland, a Scottish licence) authorising him to sell spirits, the spirits shall be liable for forfeiture and he shall be liable on summary conviction to a penalty of £100 and may be detained.
- (2) If any person knowingly sells or delivers or causes to be sold or delivered any spirits in order that they may be unlawfully consumed or brought into home use, then, in addition to any other punishment he may have incurred, he shall be liable on summary conviction to a penalty of £100.
- (3) If any person receives, buys or procures any spirits from a person not authorised to sell or deliver them, he shall be liable on summary conviction to a penalty of £100.
- (4) If any spirits delivered in bottle from a warehouse for home use are sold by a wholesaler or retailer of spirits at a strength lower than that by reference to which the duty chargeable thereon was computed, he shall be liable on summary conviction to a penalty of £50.
- (5) For the purposes of this section " Scottish licence" includes an off-licence in terms of Schedule 1 to the Licensing (Scotland) Act 1976.

## **71 Penalty for mis-describing liquor as spirits**

- (1) If any person—
  - (a) for the purpose of selling any liquor, describes the liquor (whether in any notice or advertisement or on any label or wrapper, or in any other manner

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whatsoever) by any name or words such as to indicate that the liquor is, or is a substitute for, or bears any resemblance to, any description of spirits, or that the liquor is wine fortified or mixed with spirits or any description of spirits; or

- (b) sells, offers for sale, or has in his possession for the purpose of sale, any liquor so described,

that person shall be guilty of an offence under this section unless he proves that the duty chargeable on spirits has been paid in respect of not less than 97J per cent. of the liquor.

- (2) Notwithstanding anything in this section—

- (a) the name " port " or " sherry " or the name of any other description of genuine wine; or  
 (b) a name which, before 4th May 1932, was used to describe a liquor containing vermouth and spirits, the quantity of vermouth being not less than the quantity of spirits computed at proof,

shall not, for the purposes of this section, be treated as being in itself such a description as to give such an indication as is mentioned in subsection (1)(a) above.

- (3) Notwithstanding anything in this section, a person who has sold, offered for sale, or had in his possession for the purpose of sale, any liquor described only by any such name as is mentioned in subsection (2)(a) above shall not be guilty of an offence under this section by reason that the liquor has been described by some other person (not being the agent or servant of the first mentioned person) by that name in association with some other description such as to give such an indication as is mentioned in subsection (1)(a) above.

- (4) Any person guilty of an offence under this section shall be liable on summary conviction to a penalty of £100; and on the conviction of a person under this section the court may direct that any liquor and other article by means of or in relation to which the offence has been committed shall be forfeited, and any liquor or other article so directed to be forfeited shall be destroyed or otherwise disposed of as the court may direct.

- (5) Nothing in this section as it applies to England and Wales or Northern Ireland shall apply to any liquor which is prepared—

- (a) on any premises in respect of which a justices' on-licence is in force; or  
 (b) in any registered club ; or  
 (c) on any premises, or on board any aircraft, vessel or vehicle in the case of which, by virtue of section 199(c) or (d) of the Licensing Act 1964, a justices' licence is not required,

for immediate consumption on those premises, in that club or on board that aircraft, vessel or vehicle, as the case may be.

- (6) Nothing in this section as it applies to Scotland shall apply to any liquor which is prepared—

- (a) on any premises in respect of which a Scottish licence is in force; or  
 (b) in any registered club; or  
 (c) in any theatre, or on board any aircraft, vessel or vehicle in the case of which, by virtue of section 138(1)(b) or (c) of the Licensing (Scotland) Act 1976, a Scottish licence is not required,

for immediate consumption on those premises, in that club, at that theatre or on board that aircraft, vessel or vehicle, as the case may be.

## **72 Offences by wholesaler or retailer of beer**

- (1) If any wholesaler or retailer of beer dilutes any beer or adds anything to beer other than finings for the purpose of clarification he shall be liable on summary conviction to a penalty of £50.
- (2) If any beer which has been diluted or to which anything other than finings for the purpose of clarification has been added is found in the possession of a wholesaler or retailer of beer he shall be liable on summary conviction to a penalty of £50 and the beer shall be liable to forfeiture.
- (3) Subject to subsection (4) below, if a wholesaler or retailer of beer receives or has in his custody or possession any sugar of any description or any saccharine substance, extract or syrup, except such as he proves to be for domestic use, or any preparation for increasing the gravity of beer, he shall be liable on summary conviction to a penalty of £50 and the article in question shall be liable to forfeiture.
- (4) Where a wholesaler or retailer of beer carries on upon the same premises the trade of a brewer for sale or of a grocer, subsection (3) above shall not apply to sugar and other preparations duly held by him in accordance with regulations made under section 50 above as a brewer for sale, or to sugar or syrup kept by him for sale in the ordinary course of his trade as a grocer.

## **73 Penalty for mis-describing substances as beer**

- (1) If any person—
  - (a) for the purpose of selling any substance, describes the substance (whether in any notice or advertisement, or on any label, or in any other manner whatsoever) by any name or words such as to indicate that the substance is, or is a substitute for, or bears any resemblance to, beer or any description of beer ; or
  - (b) sells, offers for sale or has in his possession for the purpose of sale any substance so described,that person shall be guilty of an offence under this section unless he proves that the duty chargeable on beer has been paid in respect of the whole of the substance.
- (2) Black beer the worts whereof before fermentation were of a specific gravity of 1200° or more is not a substance to which this section applies; and for the purposes of this section the name " black beer " shall not in itself be taken to be such a description as to give such an indication as is mentioned in subsection (1)(a) above.
- (3) For the purposes of this section the name " ginger beer " or " ginger ale " shall not in itself be taken to be such a description as to give such an indication as is mentioned in subsection (1)(a) above.
- (4) Any person guilty of an offence under this section shall be liable on summary conviction to a penalty of £100; and on the conviction of a person under this section the court may order that any article by means of or in relation to which the offence has been committed shall be forfeited, and any article so directed to be forfeited shall be destroyed or otherwise disposed of as the court may direct.

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#### **74 Liquor to be deemed wine or spirits**

For the purposes of this Act, as against any person selling or offering for sale the liquor in question—

- (a) any liquor sold or offered for sale as wine or under the name by which any wine is usually designated or known shall be deemed to be wine ; and
- (b) any fermented liquor which is of a strength exceeding 40° of proof, not being imported wine delivered for home use in that state on which the appropriate duty has been duly paid, shall be deemed to be spirits.

Paragraph (a) above is without prejudice to any liability under section 71 above.