



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART I

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

CHAPTER I

CUSTOMS AND EXCISE

Abolition of fiscal frontiers etc.

1 Powers to fix excise duty point

- (1) Subject to the following provisions of this section, the Commissioners may by regulations make provision, in relation to any duties of excise on goods, for fixing the time when the requirement to pay any duty with which goods become chargeable is to take effect (“the excise duty point”).
- (2) Where regulations under this section fix an excise duty point for any goods, the rate of duty for the time being in force at that point shall be the rate used for determining the amount of duty to be paid in pursuance of the requirement that takes effect at that point.
- (3) Regulations under this section may provide for the excise duty point for any goods to be such of the following times as may be prescribed in relation to the circumstances of the case, that is to say—
 - (a) the time when the goods become chargeable with the duty in question;
 - (b) the time when there is a contravention of any prescribed requirements relating to any suspension arrangements applying to the goods;
 - (c) the time when the duty on the goods ceases, in the prescribed manner, to be suspended in accordance with any such arrangements;
 - (d) the time when there is a contravention of any prescribed condition subject to which any relief has been conferred in relation to the goods;

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- (e) such time after the time which, in accordance with regulations made by virtue of any of the preceding paragraphs, would otherwise be the excise duty point for those goods as may be prescribed;
- and regulations made by virtue of any of paragraphs (b) to (e) above may define a time by reference to whether or not at that time the Commissioners have been satisfied as to any matter.
- (4) Where regulations under this section prescribe an excise duty point for any goods, such regulations may also make provision—
- (a) specifying the person or persons on whom the liability to pay duty on the goods is to fall at the excise duty point (being the person or persons having the prescribed connection with the goods at that point or at such other time, falling no earlier than when the goods become chargeable with the duty, as may be prescribed); and
 - (b) where more than one person is to be liable to pay the duty, specifying whether the liability is to be both joint and several.
- (5) Schedule 1 to this Act (which contains minor and consequential amendments and savings for purposes connected with the other provision made by this section) shall have effect.
- (6) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
- (a) to make different provision for different cases, including different provision for different duties and different goods; and
 - (b) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.
- (7) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
 - “contravention” includes a failure to comply;
 - “customs and excise Acts” and “goods” have the same meanings as in the Customs and Excise Management Act 1979; and
 - “prescribed” means prescribed by regulations under this section;
- and references in this section to suspension arrangements are references to any provision made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provision made by or under those Acts in connection with any provision enabling goods to be so held or moved.
- (8) This section and 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 this subsection for different provisions and for different purposes.

2 Power to provide for drawback of excise duty

- (1) Subject to the following provisions of this section, the Commissioners may, in relation to any duties of excise, by regulations make provision conferring an entitlement to drawback of duty in prescribed cases where the Commissioners are satisfied that goods chargeable with duty have not been, and will not be, consumed in the United Kingdom.

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- (2) The power of the Commissioners to make regulations under this section shall include power—
 - (a) to provide for, or for the imposition of, the conditions to which an entitlement to drawback under the regulations is to be subject;
 - (b) to provide for the determination of the person on whom any such entitlement is conferred;
 - (c) to make different provision for different cases, including different provision for different duties and different goods; and
 - (d) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.
- (3) Without prejudice to the generality of subsection (2)(d) above, the power of the Commissioners to make regulations under this section shall include power, in relation to any drawback of duty to which any person is entitled by virtue of regulations under this section, to provide—
 - (a) for entitlement to the drawback to be cancelled at any time after it has been conferred if there is a contravention of any conditions to which it is subject or in such other circumstances as may be prescribed; and
 - (b) for such persons as may be prescribed to be liable to the Commissioners for sums paid or credited to any person in respect of any drawback that has been cancelled in accordance with any such regulations.
- (4) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
 - “the Commissioners” means the Commissioners of Customs and Excise;
 - “contravention” includes a failure to comply;
 - “goods” has the same meaning as in the Customs and Excise Management Act 1979; and
 - “prescribed” means prescribed by regulations under this section.
- (6) This section 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 this subsection for different provisions and for different purposes.

3 Protection of revenues derived from excise duties

- (1) Schedule 2 to this Act (which makes additional provision for purposes connected with the protection of the revenues derived from excise duties) shall have effect.
- (2) This section and Schedule 2 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

4 Enforcement powers

- (1) Except in a case falling within subsection (2) below, the powers to which this section applies shall not be exercisable in relation to any person or thing entering or leaving

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the United Kingdom so as to prevent, restrict or delay the movement of that person or thing between different member States.

- (2) The cases in which a power to which this section applies may be exercised as mentioned in subsection (1) above are those where it appears to the person on whom the power is conferred that there are reasonable grounds for believing that the movement in question is not in fact between different member States or that it is necessary to exercise the power for purposes connected with—
- (a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
 - (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods into or out of the member States; or
 - (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.
- (3) Subject to subsection (4) below, this section applies to any power which is conferred on the Commissioners of Customs and Excise or any officer or constable under any of the following provisions of the Customs and Excise Management Act 1979, that is to say—
- (a) section 21 (control of movement of aircraft into and out of the United Kingdom);
 - (b) section 26 (power to regulate movement by land into and out of Northern Ireland);
 - (c) section 27 (officers' powers of boarding);
 - (d) section 28 (officers' powers of access);
 - (e) section 29 (officers' powers to detain ships);
 - (f) section 34 (power to prevent flight of aircraft);
 - (g) section 78 (questions as to baggage of person entering or leaving the United Kingdom);
 - (h) section 164 (powers of search).
- (4) The Treasury may by order made by statutory instrument add any power conferred by any enactment contained in the customs and excise Acts to the powers to which this section applies; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
- “Community customs duty” includes any agricultural levy of the Economic Community; and
 - “the customs and excise Acts” and “goods” have the same meanings as in the Customs and Excise Management Act 1979;
- and for the purposes of this section a power shall be taken to be exercised otherwise than in relation to a person or thing entering or leaving the United Kingdom in any case where the power is exercisable irrespective of whether the person or thing in question is entering or leaving the United Kingdom.
- (6) This section shall come into force on 1st January 1993.

5 Controls of persons entering the United Kingdom

- (1) In section 78 of the Customs and Excise Management Act 1979 (controls of persons entering or leaving the United Kingdom), after subsection (2) there shall be inserted the following subsection —

“(2A) Subject to subsection (1A) above, where the journey of a person arriving by air in the United Kingdom is continued or resumed by air to a destination in the United Kingdom which is not the place where he is regarded for the purposes of this section as entering the United Kingdom, subsections (1) and (2) above shall apply in relation to that person on his arrival at that destination as they apply in relation to a person entering the United Kingdom.”

- (2) This section shall come into force on 1st January 1993.

Other provisions

6 Abolition of duties on matches and mechanical lighters

- (1) The Matches and Mechanical Lighters Duties Act 1979 shall cease to have effect.
(2) This section shall come into force on 1st January 1993.

7 Bingo duty: increased exemption etc

- (1) Schedule 3 to the Betting and Gaming Duties Act 1981 shall be amended as follows.
(2) In paragraph 2 the following shall be substituted for sub-paragraph (1)(a) (exemption from bingo duty for clubs etc. where prizes do not exceed certain limits)—
“(a) a person’s eligibility to participate in that bingo depends upon his being a member of a particular society or his being a guest of such a member or of the society;”
(3) In paragraph 12(1) (promoter of bingo other than bingo exempt from duty by virtue of paragraph 1, 5 or 6 to keep accounts etc.) for “paragraph 1, 5 or 6 above” there shall be substituted “Part I of this Schedule”.
(4) This section shall apply as regards bingo played in any week beginning on or after 3rd August 1992.

8 Tobacco products duty: retail price of cigarettes

In section 5 of the Tobacco Products Duty Act 1979—

- (a) in paragraph (b) of subsection (1) (determination of retail price of cigarettes by reference to price recommended by a manufacturer or importer), for “price recommended by the importer or manufacturer” and “price so recommended” there shall be substituted “recommended price”; and
(b) after that subsection there shall be inserted the following subsection—

“(1A) In subsection (1) above “recommended price”—

- (a) in relation to a case in which cigarettes of the applicable description are manufactured by a manufacturer in a member State, means any price recommended by that manufacturer; and

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- (b) in relation to a case which does not fall within paragraph (a) above, means any price recommended by an importer of cigarettes of the applicable description.”

9 Amendments relating to new beer duty regime

- (1) Schedule 2 to the Finance Act 1991 (amendments relating to beer duty) shall be amended as follows.
- (2) Immediately before paragraph 22 there shall be inserted—
- “21A In section 386(1) of the Insolvency Act 1986 (categories of preferential debts) after “betting and gaming duties” there shall be inserted “, beer duty”.”
- (3) Immediately before paragraph 23 there shall be inserted—
- “22A In Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) after “betting and gaming duties” there shall be inserted “, beer duty”.”

10 Search of aircraft

- (1) The Customs and Excise Management Act 1979 shall be amended as follows.
- (2) In section 27(1) (officers' powers of boarding and searching aircraft at a customs and excise airport, etc.) for the words “a customs and excise airport” there shall be substituted “an aerodrome”.
- (3) In section 28(1) (officers' powers of access to aircraft at customs and excise airport, etc.) for the words “customs and excise airport” there shall be substituted “aerodrome”.
- (4) In section 163 (power to stop and search vehicles or vessels) the following subsection shall be inserted at the end—
- “(3) This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but the power to stop and search in subsection (1) above shall not be available in respect of aircraft which are airborne.”

11 Vehicles excise duty: goods vehicles

- (1) Schedule 4 to the Vehicles (Excise) Act 1971 (annual rates of duty on goods vehicles) shall be amended as mentioned in subsections (2) to (9) below.
- (2) In Part I of the Schedule in sub-paragraph (3)(a) of paragraph 5 (special types) for “30,000” there shall be substituted “31,000” and for “30,490” there shall be substituted “32,000”.
- (3) In that Part the following paragraph shall be substituted for paragraph 14A—
- “14A (1) This paragraph applies in any case where—
- (a) a vehicle licence has been taken out for a tractor unit having two axles which is to be used only with semi-trailers with not less than three axles; and

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- (b) the rate of duty paid on taking out the licence is equal to or exceeds the rate of duty applicable to a tractor unit having two axles—
- (i) which has a plated train weight of 33,000 kilograms, and
 - (ii) which is to be used with semi-trailers with not less than two axles.

(2) If, in a case to which this paragraph applies, the tractor unit is used with a semi-trailer with two axles and, when so used, the laden weight of the tractor unit and semi-trailer taken together does not exceed 33,000 kilograms, the tractor unit shall, when so used, be taken to be licensed in accordance with the requirements of this Act.”

(4) In Table A set out in Part II of the Schedule (rigid goods vehicles exceeding 12,000 kilograms plated gross weight: general rates) for the last three entries there shall be substituted—

“25,000	27,000	—	2,260.00	1,420.00
27,000	29,000	—	—	2,240.00
29,000	31,000	—	—	3,250.00
31,000	32,000	—	—	4,250.00”

(5) In Table A(1) set out in that Part (rigid goods vehicles exceeding 12,000 kilograms plated gross weight: farmers' vehicles) for the last three entries there shall be substituted—

“25,000	27,000	—	1,355.00	850.00
27,000	29,000	—	—	1,345.00
29,000	31,000	—	—	1,950.00
31,000	32,000	—	—	2,550.00”

(6) In Table A(2) set out in that Part (rigid goods vehicles exceeding 12,000 kilograms plated gross weight: showmen's vehicles) for the last three entries there shall be substituted—

“25,000	27,000	—	565.00	355.00
27,000	29,000	—	—	560.00
29,000	31,000	—	—	815.00
31,000	32,000	—	—	1,060.00”

(7) In Table C set out in that Part (tractor units exceeding 12,000 kilograms plated train weight and having only two axles: general rates) for the last three entries there shall be substituted—

“33,000	34,000	5,000.00	5,000.00	1,680.00
34,000	36,000	5,000.00	5,000.00	2,750.00

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36,000	38,000	5,000.00	5,000.00	3,100.00”
(8) In Table C(1) set out in that Part (tractor units exceeding 12,000 kilograms plated train weight and having only two axles: farmers' vehicles) for the last three entries there shall be substituted—				
“33,000	34,000	3,000.00	3,000.00	1,010.00
34,000	36,000	3,000.00	3,000.00	1,650.00
36,000	38,000	3,000.00	3,000.00	1,860.00”

(9) In Table C(2) set out in that Part (tractor units exceeding 12,000 kilograms plated train weight and having only two axles: showmen's vehicles) for the last three entries there shall be substituted—				
“33,000	34,000	1,250.00	1,250.00	420.00
34,000	36,000	1,250.00	1,250.00	690.00
36,000	38,000	1,250.00	1,250.00	775.00”

(10) In Case B of section 18A(3) of the Vehicles (Excise) Act 1971, in paragraph (c) the words from “in circumstances in which” to the end of the paragraph shall be omitted.

(11) This section shall apply in relation to licences taken out on or after 1st January 1993.

12 Vehicles excise duty: disabled persons

- (1) The following provisions shall cease to have effect—
- (a) section 7 of the Finance Act 1971 (exemption from vehicles excise duty for disabled passengers), and
 - (b) section 7(2C) and (2D) of the Vehicles (Excise) Act 1971 (corresponding Northern Ireland provision).
- (2) This section and Part IV of Schedule 18 to this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and such an order may contain such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.

13 Vehicles excise duty: registration marks

- (1) In section 11 of the Finance Act 1989 (power to make provision for retention of registration marks)—
- (a) for paragraph (f) of subsection (2) (extension of period of right of retention) there shall be substituted the following paragraph—
 - “(f) for enabling or requiring the Secretary of State, on the payment to him of a specified fee, to extend or (on one or more occasions) further extend the period referred to in subsection (1) above where the specified conditions are fulfilled and he thinks fit to do so in the circumstances of the case;”

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- (b) in subsection (3) (power to make different provision for different cases), at the end there shall be inserted “and may, in particular, exempt extensions or assignments of any specified class or description from any fee or charge payable by virtue of subsection (2)(f) or (j) above”;
 - (c) after that subsection there shall be inserted the following subsection—
 - “(3A) Where regulations under this section provide in any case for there to be no charge in connection with the assignment of a registration mark in pursuance of a right of retention—
 - (a) the fee specified by virtue of paragraph (b) of subsection (2) above in relation to an application for that right may include an amount representing the charge for which provision could have been made by virtue of paragraph (j) of that subsection; and
 - (b) regulations under this section may provide for the part of any such fee which represents a charge for which provision could have been so made to be retained, except where the specified conditions are fulfilled, whether or not there is an assignment.”; and
 - (d) in subsection (6), for paragraphs (a) and (b) of the definition of “the principal section” there shall be substituted “section 19 of the Vehicles (Excise) Act 1971;
- (2) In section 12 of the Finance Act 1989 (provision for sale of registration marks)—
- (a) in paragraph (a) of subsection (3) (provision for acquisition of right on payment of sum in respect of acquisition), at the end there shall be inserted “and, where no charge is to be made by virtue of paragraph (j) below in connection with an assignment in pursuance of the right, in respect of such an assignment;”
 - (b) for paragraph (f) of that subsection (extension of period of relevant right) there shall be substituted the following paragraph—
 - “(f) for enabling or requiring the Secretary of State, on the payment to him of a specified fee, to extend or (on one or more occasions) further extend any such period where the specified conditions are fulfilled and he thinks fit to do so in the circumstances of the case;”
 - (c) after paragraph (j) of that subsection there shall be inserted the following paragraph—
 - “(ja) for so much of any sum paid by virtue of paragraph (a) above in respect of the assignment of a registration mark to be retained, except where the specified conditions are fulfilled, whether or not there is such an assignment.”;
 - (d) in subsection (5) (power to make different provision for different cases), for the words from “assignments” onwards there shall be substituted “extensions or assignments of any specified class or description from any fee or charge payable by virtue of subsection (3)(f) or (j) above.”
- (3) Section 128 of the Finance Act 1990 (power to provide repayment of fees and charges) shall apply to any power by virtue of this section to make provision under section 11 or 12 of the Finance Act 1989 for the payment of any sum as it applies to powers conferred before that Act of 1990 was passed.

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- (4) Any sums received by the Secretary of State in respect of the extension or further extension of the period of any right granted to or acquired by any person by virtue of regulations under section 11 or 12 of the Finance Act 1989 shall be paid into the Consolidated Fund.