

*Status: Point in time view as at 19/03/1997.*

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## SCHEDULES

### SCHEDULE 4

Section 9.

#### PENALTIES FOR STATUTORY CONTRAVENTIONS

##### PART I

###### CONTRAVENTIONS UNDER THE MANAGEMENT ACT

- 1 The Management Act shall be amended in accordance with the following provisions of this Part of this Schedule.
- 2 (1) In subsection (6) of section 92 (offence of making alteration in or addition to approved warehouse), for the words from “he shall be liable” onwards there shall be substituted “ the making of the alteration or addition shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”  
(2) For subsection (8) of that section (offence of contravening condition or direction given in connection with the approval of a warehouse) there shall be substituted the following subsection—  
“(8) Where any person contravenes or fails to comply with any condition imposed or direction given by the Commissioners under this section, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 3 In section 93(6) (offence of failing to comply with any warehousing regulations or with any condition, restriction or requirement imposed under any warehousing regulations), for the words from “he shall be liable” onwards there shall be substituted “ his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 4 In section 100J (offence and forfeiture in the case of a contravention of REDS regulations), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes any provision of any such regulations, or fails to comply with any such condition or restriction, shall be liable to forfeiture. ”
- 5 In section 101(4) (offence of failing to produce licence after being requested to do so)—
  - (a) for “a reasonable time” there shall be substituted “ one month ”; and
  - (b) for the words from “he shall be liable” onwards there shall be substituted “ his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 6 (1) In subsection (2) of section 107 (offence of failing to display notice or comply with directions as to the form and manner of a notice), for the words from “he shall be

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- liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) In subsection (3) of that section (offence of affixing misleading notice), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 7 In section 108(4) (offence of contravening directions in relation to premises etc. entered under the revenue trade provisions), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 8 (1) In subsection (1) of section 111 (using premises or article without having entered them), for the words from “he shall be liable” to the words “and any”, in the first place where they occur, there shall be substituted “ his use of the premises or article shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any ”.
- (2) Subsection (2) of that section (fraudulent use of entered premises or article) shall cease to have effect.
- 9 In section 114(2) (offence of using prohibited substance or liquor), for the words from “he shall be liable” onwards there shall be substituted “ his use of that substance or liquor in that manner shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); but section 10 of that Act (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of this subsection. ”
- 10 (1) In subsection (4) of section 115 (offence of tampering etc. with specimen)—
- (a) for “any person other than an officer” there shall be substituted “ the revenue trader ”; and
- (b) for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) After that subsection there shall be inserted the following subsection—
- “(5) For the purposes of subsection (4) above and without prejudice to section 10(1) of the Finance Act 1994 (exception for cases of reasonable excuse), conduct by an employee of the revenue trader or by any other person entitled to act on the trader’s behalf in connection with his trade shall be deemed to be conduct by that trader except in so far as he took all reasonable steps to prevent it.”
- 11 In section 116(3) (offence of failing to pay duty on demand), for the words from “the trader shall” onwards there shall be substituted “ the trader’s failure to pay the duty on demand shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of the duty demanded and shall also attract daily penalties. ”
- 12 In section 118G (offences in connection with record keeping etc. by revenue traders), for the words from “he shall be liable” onwards there shall be substituted “ his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, in the case of any failure to keep records, shall also attract daily penalties. ”
- 13 (1) In subsection (1) of section 170A (offence of handling goods subject to unpaid duty)

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- (a) in paragraph (b), for the words from “the duty” to “its payment” there shall be substituted “ a payment of duty on the goods is outstanding and ”; and
  - (b) for the words after that paragraph there shall be substituted— “ the conduct of that person falling within paragraph (a) above shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of the unpaid duty. ”
- (2) In subsection (2) of that subsection (defences), for the words before paragraph (a) there shall be substituted—

“(2) Section 10 of the Finance Act 1994 (exception to civil penalty in cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above; but such conduct shall not give rise to any liability to a penalty under section 9 of that Act if the person whose conduct it is satisfies the Commissioners or, on appeal, a VAT and duties tribunal, that he—”.

## PART II

### CONTRAVENTIONS UNDER THE ALCOHOLIC LIQUOR DUTIES ACT 1979

- 14 The <sup>M1</sup>Alcoholic Liquor Duties Act 1979 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

M1 1979 c. 4.

- 15 In section 8(2) (offence of contravening condition of remission of duty on spirits used for medical or scientific purposes), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 16 In section 10(2) (offence of contravening condition of remission of duty on spirits used in art or manufacture), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 17 (1) In subsection (3) of section 13 (offence and forfeiture in the case of a contravention of regulations etc. applying to the manufacture of spirits)—
- (a) for the words from “he shall” to “continues” there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”; and
  - (b) for the words from “in respect of which” onwards there shall be substituted “ in respect of which any person contravenes any such regulation, or fails to comply with any such regulation, condition, restriction or requirement, shall be liable to forfeiture. ”
- (2) Subsection (4) of that section (power to vary penalty under subsection (3)) shall cease to have effect.
- (3) In subsection (5) of that section (offence and forfeiture in the case of a contravention of any condition imposed with respect to any process of manufacture involving

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- spirits), for the words from “he shall be liable” onwards there shall be substituted “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits in respect of which any person contravenes or fails to comply with any such condition shall be liable to forfeiture.”
- 18 (1) In subsection (4) of section 15 (offence of failing to provide accommodation for officer in charge of a distiller’s warehouse), for the words from “he shall” to “but nothing” there shall be substituted “his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); but nothing”.
- (2) For subsection (5) of that section there shall be substituted the following subsection—
- “(5) Where, after the approval of a distiller’s warehouse, the distiller by whom it is provided makes, without the previous consent of the Commissioners, an alteration in or addition to that warehouse, the making of the alteration or addition shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- (3) In subsection (7) of that section (offence and forfeiture in the case of a contravention of regulations relating to a distiller’s warehouse), for the words from “he shall” onwards there shall be substituted “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits in respect of which any person contravenes any such regulation, or fails to comply with any such regulation or condition, shall be liable to forfeiture.”
- (4) Subsection (8) of that section (power to vary penalty under subsection (7)) shall cease to have effect.
- 19 (1) In subsection (2) of section 16 (offence and forfeiture in the case of a contravention of regulations relating to racking at a distillery), for the words from “he shall be liable” onwards there shall be substituted “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.”
- (2) In subsection (3) of that section (forfeiture and offence in the case of an excess of stock), for the words from “the distiller shall be liable” onwards there shall be substituted “there shall be deemed to have been conduct by the distiller attracting a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 20 In section 18(6) (rectifying or compounding spirits in contravention of an excise licence), for the words from “he shall be liable” onwards there shall be substituted “his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 21 (1) In subsection (2) of section 19 (offence and forfeiture in the case of contraventions of obligations imposed by or under regulations relating to the rectifying etc. of spirits), for the words from “he shall” onwards there shall be substituted “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits and any other article in respect of which any person contravenes any such regulation, or fails to comply with any such regulation, condition, requirement or restriction, shall be liable to forfeiture.”
- (2) Subsection (3) of that section (power to vary penalty under subsection (2)) shall cease to have effect.

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- 22 In each of subsections (1) and (2) of section 20 (forfeiture and offences in the case of an excess or deficiency of stock), for the words from “the rectifier shall be liable” onwards there shall be substituted “ there shall be deemed to have been conduct by the rectifier attracting a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 23 (1) In subsection (3) of section 21 (offences in the case of certain contraventions of restrictions relating to rectifiers), for the words from “he shall be liable” onwards there shall be substituted “ the contravention of that subsection shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) or, as the case may be, there shall be deemed to have been conduct by the rectifier attracting such a penalty. ”
- (2) For subsection (4) of that section (disqualification from holding a licence) there shall be substituted the following subsection—
- “(4) Where—
- (a) a rectifier becomes liable and is assessed to a penalty by virtue of subsection (3) above, and
- (b) the assessment is not more than three years after the making of a previous assessment to a previous penalty to which he became liable by virtue of that subsection,
- then his licence shall become void and he shall be disqualified from holding a licence as a rectifier for a period of three years from the date on which the assessment to the penalty mentioned in paragraph (a) above is made.”
- (3) Where a person has been convicted of an offence under subsection (3) of that section within the period of three years before the coming into force of sub-paragraph (2) above—
- (a) that sub-paragraph shall be without prejudice to the continuation to the end of the appropriate three year period of any disqualification under subsection (4) of that section which is in force when that sub-paragraph comes into force; and
- (b) subsection (4) of that section, as amended by that sub-paragraph, shall have effect as if the conviction were an assessment to a penalty to which that person was liable by virtue of subsection (3) of that section.
- 24 In section 22(9) (offence and forfeiture in the case of a contravention of regulations relating to drawback on compounds), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”
- 25 In section 24(4) (offence of contravening provisions restricting the carrying on of other trades by a distiller or rectifier), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 26 (1) In subsection (1) of section 33 (offence and forfeiture in the case of the use of spirits relieved from spirits duty), in the words after paragraph (c), for the words from “he shall” to “greater” there shall be substituted “ his doing so shall, unless he has complied with the requirements specified in subsection (2) below, attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.

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- (2) In subsection (5) of that section (contravention of enforcement regulations), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 27 For subsection (2) of section 34 (offence of contravening prohibition on grogging) there shall be substituted the following subsection—
- “(2) A contravention of this section shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 28 In section 35(3) (contravention of regulations as to returns etc. relating to importation, manufacture, sale or use of alcohols), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 29 In section 41A(8) (offence and forfeiture in the case of a contravention of a condition of registration), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any beer in respect of which any person contravenes or fails to comply with any such condition shall be liable to forfeiture. ”
- 30 In section 44(2) (offence of contravening condition imposed in connection with remission of duty on beer used for the purposes of research or experiment), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 31 In section 46(2) (offence of contravening regulations relating to the remission of duty on spoilt beer), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 32 (1) In subsection (4) of section 47 (offence of failing to apply for registration as a brewer), for the words from “he shall be liable” to “scale;” there shall be substituted “ his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- (2) In subsection (5) of that section (offence and forfeiture in the case of the production of beer by an unregistered person), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the beer produced, and the beer produced and any worts found on those premises shall be liable to forfeiture. ”
- 33 For subsection (3) of section 49 (offence and forfeiture in the case of a contravention of beer regulations) there shall be substituted the following subsection—
- “(3) Where any person contravenes or fails to comply with any regulation made under this section, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article or substance in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.”
- 34 In section 54(5) (offence of producing wine on unlicensed premises), for the words from “he shall” to “and the wine” there shall be substituted “ his doing so shall

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- attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the wine produced, and the wine ”.
- 35 In section 55(6) (offence of producing made-wine on unlicensed premises), for the words from “he shall” to “and the made-wine” there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the made-wine produced, and the made-wine ”.
- 36 In section 55A(3) (offence of contravening regulations relating to wine or made-wine of a certain strength)—
- (a) for “Any person who” there shall be substituted “ Where any person ”; and
  - (b) for the words from “shall be liable” to “scale” there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- 37 In section 56(2) (offence and forfeiture in the case of a contravention of regulations relating to wine and made-wine), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”
- 38 For subsection (2) of section 59 (offence of rendering wine or made-wine sparkling) there shall be substituted the following subsection—
- “(2) Where any person contravenes subsection (1) above or is concerned in such a contravention, his contravention or, as the case may be, his being so concerned shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 39 In section 61(2) (offence of contravening regulations relating to the remission of duty on spoilt wine or made-wine), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 40 (1) In subsection (4) of section 62 (offence of producing cider on unlicensed premises), for the words from “he shall” to “and the cider” there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the cider made, and the cider ”.
- (2) In subsection (6) of that section (offence and forfeiture in the case of a contravention of regulations made for the purposes of managing the duty on cider), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”
- 41 In section 64(2) (offence of contravening regulations relating to the remission of duty on spoilt cider), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 42 In section 67(2) (offence and forfeiture in the case of any contravention of regulations regulating the keeping of dutiable liquors by wholesalers and retailers),

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- for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any liquor, container or utensil in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”
- 43 (1) In subsection (3) of section 69 (offences relating to the carrying on of businesses by wholesalers and retailers), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) In subsection (4) of that section (offence relating to the sending out or selling of spirits by a retailer), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 44 (1) In subsection (1) of section 71 (penalty of misdescribing liquor as spirits), for the words from “that person shall” to “liquor or that” there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) unless the duty chargeable on spirits has been paid in respect of no less than 97.5 per cent. of the liquor or ”.
- (2) In subsection (3) of that section, for “guilty of an offence under this section” there shall be substituted “ liable to a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- (3) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) Any liquor or other article by means of or in relation to which there is a contravention of subsection (1) above shall be liable to forfeiture.”
- 45 In section 75(5) (offence of unlicensed methylation of spirits)—
- (a) for “Any person who” there shall be substituted “ Where any person ”; and
- (b) for the words from “shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 46 (1) In subsection (3) of section 77 (offence of contravening regulations relating to methylated spirits or any condition, restriction or requirement imposed under any such regulations), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) In subsection (4) of that section (offence of unlicensed dealing in methylated spirits), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (3) In subsection (5) of that section (forfeiture), for “an offence under subsection (3) or (4) above is committed” there shall be substituted “ there is such a contravention or failure to comply as is mentioned in subsection (3) above or any such dealing as is mentioned in subsection (4) above ”.
- 47 In section 78(4) (offence and forfeiture in the case of a person having unlicensed methylated spirits in his possession), for the words from “he shall be liable” to “and the” there shall be substituted “ his having them in his possession shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and the ”.



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- 48 In section 82(2) (offence and forfeiture in the case of a contravention of regulations relating to stills), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any still or part thereof in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”

### PART III

#### CONTRAVENTIONS UNDER THE HYDROCARBON OIL DUTIES ACT 1979

- 49 The <sup>M2</sup>Hydrocarbon Oil Duties Act 1979 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

M2 1979 c. 5.

- 50 (1) In subsection (3) of section 10 (offences in connection with use etc. of oil that has been relieved of duty for a purpose which does not qualify for relief)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
  - (b) for the words from “shall be liable” to “greater” there shall be substituted “ his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- (2) In subsection (4) of that section (offence of supplying for a use that does not qualify for relief)—
- (a) for “A person who” there shall be substituted “ Where any person ”;
  - (b) for the words from “shall be liable” to “greater, if” there shall be substituted “ and ”; and
  - (c) at the end there shall be inserted “ his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- 51 (1) In subsection (1) of section 13 (offences in connection with use etc. of heavy oil)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
  - (b) for the words from “shall be liable” to “greater” there shall be substituted “ his use of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- (2) In subsection (2) of that section (offence of supplying heavy oil for a use in contravention of section 12(2))—
- (a) for “A person who” there shall be substituted “ Where any person ”;
  - (b) for the words from “shall be liable” to “greater, where” there shall be substituted “ and ”; and
  - (c) at the end there shall be inserted “ his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 52 (1) In subsection (4) of section 14 (offences in connection with use etc. of oil in the case of which rebate has been allowed)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and

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- (b) for the words from “shall be liable” to “greater” there shall be substituted “ his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- (2) In subsection (5) of that section (offence of supplying for a use for which no rebate is allowed)—
- (a) for “A person who” there shall be substituted “ Where any person ”;
- (b) for the words from “shall be liable” to “greater, if” there shall be substituted “ and ”; and
- (c) at the end there shall be inserted “ his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

<sup>F1</sup>53 .....

#### Textual Amendments

**F1** Sch. 4 para. 53 repealed (1.11.1996) by 1996 c. 8, s. 205, Sch. 41 Pt. I, Note; S.I. 1996/2536, art. 2

- 54 In section 20AA(4) (offence and forfeiture in the case of a contravention of the regulations relating to reliefs), for paragraph (a) there shall be substituted the following paragraph—
- “(a) his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); and”.
- 55 In section 21(3) (offence and forfeiture in the case of a contravention of regulations relating to administration or enforcement)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
- (b) for the words from “shall be liable on” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”
- 56 (1) In subsection (1) of section 22 (offence and forfeiture in the case of the use of fuel substitute for a chargeable purpose without duty having been paid)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
- (b) for the words from “shall be liable on” onwards there shall be substituted “ his putting the liquid to that use shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture. ”
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above.”
- 57 (1) In subsection (1) of section 23 (offence and forfeiture in the case of the use etc. of road fuel gas without duty having been paid)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
- (b) for the words from “shall be liable on” onwards there shall be substituted “ his use of the road fuel gas or, as the case may be, his taking it as fuel into

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that vehicle shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which a person contravenes this subsection shall be liable to forfeiture. ”

(2) After that subsection there shall be inserted the following subsection—

“(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above.”

58 In section 24(4) (offence and forfeiture in the case of a contravention of regulations relating to incidental matters)—

- (a) for “A person who” there shall be substituted “ Where any person ”; and
- (b) for the words from “shall be liable on” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”

#### PART IV

##### CONTRAVENTIONS UNDER THE TOBACCO PRODUCTS DUTY ACT 1979

59 In section 7(2) of the <sup>M3</sup>Tobacco Products Duty Act 1979 (offence and forfeiture in the case of a contravention of regulations for the management of the duty etc.), for the words from “he shall be liable” onwards there shall be substituted “ his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person fails to comply with any such regulation, or which is found on premises in respect of which any person has failed to comply with any such regulation, shall be liable to forfeiture. ”

#### Marginal Citations

M3 1979 c. 7.

#### PART V

##### CONTRAVENTIONS UNDER THE BETTING AND GAMING DUTIES ACT 1981

60 The <sup>M4</sup>Betting and Gaming Duties Act 1981 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

M4 1981 c. 63.

61 In section 24(5) (offence where gaming machine provided without there being a licence in force)—

- (a) for “any person who at the time when it is so provided” there shall be substituted “ the provision of the machine shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, for the purposes

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- of the application of that section to the conduct attracting the penalty, the provision of the machine shall be treated as the conduct of each of the persons who, at the time when the gaming machine is provided ”; and
- (b) the words after paragraph (f) shall be omitted.
- 62 (1) In paragraph 13 of Schedule 1 (enforcement), for sub-paragraphs (1) and (2) there shall be substituted—
- “(1) Where any person—
- (a) fails to pay any general betting duty or pool betting duty payable by him, or
- (b) contravenes or fails to comply with any of the provisions of, or of any regulations made under, any of paragraphs 2, 4 and 6 to 10 above,
- his failure to pay, contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which, in the case of a failure to pay, shall be calculated by reference to the amount of duty payable.
- (2) Any such failure to pay as is mentioned in sub-paragraph (1)(a) above shall also attract daily penalties.
- (2A) Any person who obstructs any officer in the exercise of his functions in relation to general betting duty or pool betting duty shall be guilty of an offence and liable on summary conviction to a penalty of level 4 on the standard scale.”
- (2) In paragraph 14(3) of that Schedule (offence of failing to produce permit within period reasonably required)—
- (a) the word “reasonably” shall be omitted; and
- (b) for the words from “he shall be guilty” onwards there shall be substituted “his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- (3) In paragraph 15 of that Schedule (forfeiture and cancellation of licence on second or subsequent conviction),—
- (a) in sub-paragraph (1), for “paragraph 13(1) or (3) above” there shall be substituted “paragraph 13(3) above” and the words from “(not being” to “9 above)” shall be omitted; and
- (b) in paragraph (a) of that sub-paragraph, for the words from “the conviction” to “other person)” there shall be substituted “there has been at least one previous occasion on which that or another person has been either—
- (i) convicted of an offence under paragraph 13(3) above; or
- (ii) assessed to a penalty to which he was liable under section 8 of the Finance Act 1994 (penalty for evasion),
- in respect of conduct taking place ”.

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#### Textual Amendments

**F2** Sch. 4 para. 63 repealed (19.3.1997 with effect as mentioned in Note 2 to Sch. 18 Pt. II of the repealing Act) by 1997 c. 16, s. 113, Sch. 18 Pt. II

- 64 (1) In sub-paragraph (3) of paragraph 16 of Schedule 3 (offence of contravening provision made by or under that Schedule)—
- (a) for “Any person who” there shall be substituted “ Where any person ”; and
  - (b) for the words after paragraph (b) there shall be substituted—  
“ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) Sub-paragraph (4) of that paragraph (continuing offences) shall cease to have effect.
- 65 (1) In sub-paragraph (1) of paragraph 16 of Schedule 4 (offence of contravening provision made by or under that Schedule), for the words from “he shall be guilty” onwards there shall be substituted “ his contravention, failure to comply or refusal shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) Sub-paragraph (2) of that paragraph (continuing offences) shall cease to have effect.

## PART VI

### CONTRAVENTIONS RELATING TO LOTTERY DUTY

- 66 Chapter II of Part I of the <sup>M5</sup>Finance Act 1993 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

**M5** 1993 c. 34.

- 67 In section 27(4) (offence of failing to pay duty)—
- (a) for “A person who” there shall be substituted “ Where a person ”; and
  - (b) for the words from “is guilty” onwards there shall be substituted “ his failure so to make the payment shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount which has not been paid and shall also attract daily penalties. ”
- 68 In each of sections 28(3) and 29(8) (offences of contravening regulations made for the purposes of lottery duty)—
- (a) for “A person who” there shall be substituted “ Where a person ”; and
  - (b) for the words from “is guilty” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

**Status:**

Point in time view as at 19/03/1997.

**Changes to legislation:**

Finance Act 1994, SCHEDULE 4 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.