

**2018 No. 264**

**SOFT DRINKS INDUSTRY LEVY**

**The Soft Drinks Industry Levy (Enforcement) Regulations 2018**

*Made* - - - - *27th February 2018*

*Coming into force* - - *6th April 2018*

In accordance with section 60(3) of the Finance Act 2017(a), a draft of this instrument was laid before the House of Commons and approved by a resolution of that House.

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 54 of that Act, make the following Regulations.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Soft Drinks Industry Levy (Enforcement) Regulations 2018 and come into force on 6th April 2018.

(2) In these Regulations, “CEMA 1979” means the Customs and Excise Management Act 1979(b).

**Enforcement and application of provisions of the Customs and Excise Management Act 1979**

**2.**—(1) The provisions of CEMA 1979 listed in the table in the Schedule apply for the purposes of enforcement of soft drinks industry levy(c).

(2) Regulations 3 to 5 apply in respect of the application of those provisions for those purposes.

**Treatment of Part 2 of the Finance Act 2017, soft drinks industry levy and chargeable soft drinks for the purposes of CEMA 1979**

**3.**—(1) Part 2 of the Finance Act 2017 is to be treated as an enactment relating to customs or excise for the purposes of “the customs and excise Acts” in section 1 of CEMA 1979.

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(a) 2017 c. 10.

(b) 1979 c. 2.

(c) Soft drinks industry levy is defined in section 25(1) of the Finance Act 2017.

(2) Soft drinks industry levy is to be treated as a duty of excise on goods for the purposes of “the revenue trade provisions of the customs and excise Acts” in section 1 of CEMA 1979.

(3) Chargeable soft drinks(a) are to be treated as goods of a class or description which is subject to a duty of excise for the purposes of “revenue trader” in section 1 of CEMA 1979(b).

#### **Fraudulent evasion of soft drinks industry levy treated as a “fraud offence”**

4. An offence under section 50 (fraudulent evasion) of the Finance Act 2017 is to be treated as a “fraud offence” for the purposes of section 118C(3) and (4) of CEMA 1979(c).

#### **Chargeable soft drinks liable to forfeiture**

5.—(1) For the purposes of the listed provisions, chargeable soft drinks are to be treated as if they were things liable to forfeiture under the customs and excise Acts where in respect of the drinks—

- (a) a person is in contravention of section 35 (liability to pay the levy);
- (b) a person has committed an offence under section 50 (fraudulent evasion); or
- (c) a person has, contrary to regulations(d) made under section 52 (payment, collection and recovery)—
  - (i) failed to make a return; or
  - (ii) made a return which is incomplete or inaccurate.

(2) References to sections in paragraph (1) are to those sections of the Finance Act 2017.

(3) In paragraph (1), “the listed provisions” means the following provisions of CEMA 1979—

- (a) section 139;
- (b) sections 144 to 156;
- (c) section 159; and
- (d) Schedules 2A and 3.

*Angela MacDonald*  
*Jim Harra*

27th February 2018

Two of the Commissioners for Her Majesty’s Revenue and Customs

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(a) Chargeable soft drinks are defined in section 28 of the Finance Act 2017.  
(b) Paragraph (a)(i) in section 1 of CEMA 1979 is amended by section 11(2) of the Finance Act 1991 (c. 31) and Part 1 of Schedule 23 to the Finance Act 1993 (c. 34).  
(c) Section 118C was inserted by Schedule 5 to the Finance Act 1991. It is amended by paragraph 18(3) of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40); paragraphs 3 and 5 of Part 2 of Schedule 22 and Part 5(1) of Schedule 27 to the Finance Act 2007 (c. 11) and paragraphs 9 and 13 of Part 3 of Schedule 13 to the Finance (No. 3) Act 2010 (c. 33).  
(d) The Soft Drinks Industry Levy Regulations 2018 include regulations made under section 52.

## SCHEDULE

Regulation 2(1)

The table referred to in regulation 2(1)—

| <i>Provision of the Customs and Excise Management Act 1979</i> | <i>Description</i>  |
|--|---|
| Section 27   | Officers' powers of boarding  |
| Section 28   | Officers' powers of access, etc   |
| Sections 112 and 112A <sup>(1)</sup>                           | Power of entry upon premises, etc of revenue traders and supplementary powers     |
| Section 118BB <sup>(2)</sup>                                   | Inspection powers: goods-based duties   |
| Section 118BD <sup>(3)</sup>                                   | Inspection powers: supplementary provision  |
| Section 118C   | Entry and search of premises and persons  |
| Section 139 and sections 144 to 156                            | Forfeiture and legal proceedings  |
| Sections 158 to 160 <sup>(4)</sup>                             | General and miscellaneous powers  |
| Section 163 <sup>(5)</sup>                                     | Power to search vehicles or vessels   |
| Schedule 2A <sup>(6)</sup>                                     | Supplementary provisions relating to the detention of things liable to forfeiture |
| Schedule 3 <sup>(7)</sup>                                      | Provisions relating to forfeiture   |

<sup>(1)</sup> Section 112A was inserted by paragraphs 9 and 11 of Part 3 of Schedule 13 to the Finance (No. 3) Act 2010 (c. 33).

<sup>(2)</sup> Section 118BB was inserted by paragraphs 9 and 12 of Part 3 of Schedule 13 to the Finance (No. 3) Act 2010.

<sup>(3)</sup> Section 118BD was inserted as footnote (2).

<sup>(4)</sup> Section 158 is amended by sections 37, 38 and 46 of the Criminal Justice Act 1982. Section 159 is amended by Schedule 1 to the Isle of Man Act 1979 (c. 58), Part 2 of Schedule 4 to the Finance Act 1984 (c. 43), section 117 of the Finance Act 2008 (c. 9) and section 12 of the Finance Act 1988 (c. 39). Sections 158 and 159 are also amended by section 114(1) of the Criminal Evidence Act 1984 (c. 60) and S.I. 2015/664 (in relation to England and Wales). Section 160 is amended by Schedule 2 to the Finance Act 1991.

<sup>(5)</sup> Section 163 is amended by sections 37, 38 and 46 of the Criminal Justice Act 1982.

<sup>(6)</sup> Schedule 2A was inserted by section 226 of the Finance Act 2013 and is amended by section 175 of the Finance Act 2016 (c. 24).

<sup>(7)</sup> Schedule 3 is amended by Schedule 1 to the Isle of Man Act 1979, Schedule 4 to the Constitutional Reform Act 2005 (c. 4), section 175 of the Finance Act 2016 and S.I. 1999/1820.

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Regulations concern enforcement in relation to soft drinks industry levy introduced by Part 2 of the Finance Act 2017 (c. 10).

Regulation 2 applies the provisions of the Customs and Excise Management Act 1979 (c. 2) ("CEMA 1979") listed in the table in the Schedule for the purposes of enforcement of that levy.

Provisions of CEMA 1979 apply by reference to "the customs and excise Acts", "the revenue trade provisions of the customs and excise Acts" and "revenue trader", expressions defined in section 1 of CEMA 1979. By regulation 3, Part 2 of the Finance Act 2017, soft drinks industry

levy and chargeable soft drinks are to be treated, respectively, as an enactment, a duty of excise and goods liable to duty for the purposes of those expressions.

By regulation 4, an offence under section 50 (fraudulent evasion) of the Finance Act 2017 is to be treated as a “fraud offence” for the purposes of section 118C(3) and (4) of CEMA 1979, which section relates to entry and search of premises and persons.

By regulation 5, for the purposes of the provisions of CEMA listed, chargeable soft drinks are to be treated as if they were things liable to forfeiture under the customs and excise Acts (defined in section 1 of CEMA 1979) in the cases described in the regulation.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

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