



**Isle of Man**

*Ellan Vannin*

**AT 35 of 1986**

**ALCOHOLIC LIQUOR DUTIES ACT 1986**





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**Isle of Man***Ellan Vannin*

## ALCOHOLIC LIQUOR DUTIES ACT 1986

*Received Royal Assent:* 24 July 1986  
*Passed:* 21 October 1986  
*Commenced:* 1 April 1987

AN ACT to make provision relating to the excise duties on spirits, beer, wine, made-wine and cider; to repeal and replace certain other enactments relating to excise; and to provide for connected matters.

### PART I – PRELIMINARY

#### 1 The alcoholic liquors dutiable under this Act

[P1979/4/1]

- (1) Subsections (2) to (8) define for the purposes of this Act the alcoholic liquors which are subject to excise duty under this Act, that is to say –
- (a) spirits,
  - (b) beer,
  - (c) wine,
  - (d) made-wine, and
  - (e) cider;

and in this Act “**dutiable alcoholic liquor**” means any of those liquors and “**duty**” means excise duty.

- (2) “**Spirits**” means, subject to subsections (7) to (9) –
- (a) spirits of any description which are of a strength exceeding 1.2 per cent.,
  - (b) any such mixture, compound or preparation made with spirits as is of a strength exceeding 1.2 per cent., or
  - (c) liquors contained, with any spirits, in any mixture which is of a strength exceeding 1.2 per cent.<sup>1</sup>

- (3) “**Beer**” includes ale, porter, stout and any other description of beer, and any liquor which is made or sold as a description of beer or as a substitute for beer and which is of a strength exceeding 0.5 per cent.
- (a) [Repealed]<sup>2</sup>
- (b) [Repealed]<sup>3</sup>
- (4) “**Wine**” means any liquor which is of a strength exceeding 1.2 per cent. and which is obtained from the alcoholic fermentation of fresh grapes or of the must of fresh grapes, whether or not the liquor is fortified with spirits or flavoured with aromatic extracts.<sup>4</sup>
- (5) “**Made-wine**” means, subject to subsection (10) and subsection 51B(1), any liquor which is of a strength exceeding 1.2 per cent. and which is obtained from the alcoholic fermentation of any substance or by mixing a liquor so obtained or derived from a liquor so obtained with any other liquor or substance but does not include wine, beer, [.....]<sup>5</sup> spirits or cider.<sup>6</sup>
- (6) “**Cider**” means, subject to section 51B(1), cider (or perry) —
- (a) which is of a strength exceeding 1.2 per cent. but less than 8.5 per cent.,
- (b) which is obtained from the fermentation of apple or pear juice, without the addition at any time of —
- (i) any alcoholic liquor, or
- (ii) any liquor or substance which communicates colour or flavour,
- other than such as the Treasury may allow as appearing to it to be necessary to make cider (or perry),
- (c) the pre-fermentation mixture for which satisfies the pre-fermentation juice requirement, and
- (d) which satisfies the final product juice requirement.

For the purposes of this subsection —

- (i) “the pre-fermentation mixture” for cider (or perry) means the mixture of juice and other ingredients in which the fermentation from which the cider (or perry) is obtained takes place, as that mixture exists immediately before the fermentation process commences,
- (ii) if the cider (or perry) consists of a blend of two or more liquors constituting cider (or perry), references in this subsection to the pre-fermentation mixture are to the pre-fermentation mixtures for each of those liquors taken as a whole,
- (iii) the pre-fermentation mixture for the cider (or perry) satisfies the pre-fermentation juice requirement if the

- volume of apple or pear juice of a gravity(6) of at least 1033 degrees included in the mixture is a volume not less than 35 per cent. of the volume of the pre-fermentation mixture,
- (iv) the cider (or perry) satisfies the final product juice requirement if the aggregate of the volume of apple or pear juice of a gravity of at least 1033 degrees included in the pre-fermentation mixture and the volume of any such apple or pear juice added after fermentation commences is a volume not less than 35 per cent. of the volume of the cider (or perry), and
  - (v) the volume of any juice, the pre-fermentation mixture and the cider (or perry) is to be computed at 20°C.<sup>7</sup>
- (7) [Repealed]<sup>8</sup>
  - (8) Methyl alcohol, notwithstanding that it is so purified or prepared as to be drinkable, shall not be deemed to be spirits nor shall naphtha or any mixture or preparation containing naphtha or methyl alcohol and not containing spirits as defined in subsection (2).
  - (9) [Repealed]<sup>9</sup>
  - (10) The Treasury may by order provide that any beverage of an alcoholic strength exceeding 1.2 per cent. but not exceeding 5.5 per cent. which is made with beer or cider and is of a description specified in the order shall be deemed to be beer or, as the case may be, cider, and not to be made-wine.<sup>10</sup>

## 2 Ascertainment of strength, volume and weight of alcoholic liquors

[P1979/4/2]

- (1) Subject to subsections (6) and (7), this section applies to spirits, anything that would be spirits if it were of a strength exceeding 1.2 per cent., and any fermented liquor other than wash, and “liquor” shall be construed accordingly.<sup>11</sup>
- (2) For all purposes of this Act —
  - (a) except where some other measure of quantity is specified, any computation of the quantity of any liquor or of the alcohol contained in any liquor shall be made in terms of the volume of the liquor or alcohol, as the case may be;
  - (b) any computation of the volume of any liquor or of the alcohol contained in any liquor shall be made in litres as at 20°C; and
  - (c) the alcoholic strength of any liquor is the ratio of the volume of the alcohol contained in the liquor to the volume of the liquor (inclusive of the alcohol contained in it);
 and in this Act, unless the context otherwise requires —

“**alcohol**” means ethyl alcohol; and

“**strength**” in relation to any liquor, means its alcoholic strength computed in accordance with this section, the ratio referred to in paragraph (c) being expressed as a percentage.

- (3) The Treasury may make regulations prescribing the means to be used for ascertaining for any purpose the strength, weight or volume of any liquor, and any such regulations may provide that in computing for any purpose the strength of any liquor any substance contained therein which is not alcohol or distilled water may be treated as if it were.
- (4) Without prejudice to the generality of subsection (3), regulations under that subsection may provide that for the purpose of charging duty on any spirits, beer, cider, wine or made-wine contained in any bottle or other container, the strength, weight or volume of the liquor in that bottle or other container may be ascertained by reference to any information given on the bottle or other container by means of a label or otherwise or to any documents relating to the bottle or other container.<sup>12</sup>
- (5) Different regulations may be made under subsection (3) for different purposes.
- (6) Nothing in this section shall prevent the strength, weight or volume of beer, wine, made-wine or cider from being computed for the purpose of charging duty thereon by methods other than that provided in this section.<sup>13</sup>
- (7) [Repealed]<sup>14</sup>
- (8) Except as provided in subsection (9), where the quantity of alcohol contained in any spirits falls to be computed in accordance with this section on or after 1st January 1980 and the quantity of those spirits was last computed in accordance with this section before that date the following conversion factor shall be applied in making the first-mentioned computation, that is to say, one gallon of spirits at proof shall be taken to be equivalent to 2.595 litres of alcohol.<sup>15</sup>
- (9) The Treasury may, if it thinks fit in any particular case, require the quantity of alcohol contained in any spirits falling within subsection (8) to be computed in accordance with this section without applying the conversion factor specified in that subsection.<sup>16</sup>

### 3 Meaning of and method of ascertaining gravity of liquids

[P1979/4/3]

- (1) For the purposes of the Customs and Excise Acts 1986 —
  - (a) “**gravity**”, in relation to any liquid, means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed as at 20°C;

- (b) where the gravity of any liquid is expressed as a number of degrees that number shall be the said ratio multiplied by 1,000; and
  - (c) “**original gravity**”, in relation to any liquid in which fermentation has taken place, means its gravity before fermentation.
- (2) The gravity of any liquid at any time shall be ascertained by such means as the Treasury may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.
- (3) Where for any purposes of the Customs and Excise Acts 1986 it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, that gravity shall be determined in such manner as the Treasury may by regulations prescribe.<sup>17</sup>
- (4) [Repealed]<sup>18</sup>

## PART II – SPIRITS

### *Charge of excise duty*

#### **4 Spirits: charge of excise duty**

[P1979/4/5]

There shall be charged on spirits —

- (a) imported; or
- (b) distilled, or manufactured by any other process whatsoever, in the Island,

a duty of excise at the rate of £27.66 per litre of alcohol in the spirits.<sup>19</sup>

### *Reliefs from excise duty*

#### **5 [Repealed]<sup>20</sup>**

[P1979/4/6]

#### **5A [Repealed]<sup>21</sup>**

#### **5A Exemption from duty on spirits in flavourings**

- (1) Duty shall not be payable on any spirits contained in flavourings imported into the Island or used in the production of flavourings if the flavourings are for use in —
- (a) the preparation of foods for human consumption, or

- (b) the preparation of any beverage of an alcoholic strength not exceeding 1.2 per cent.
- (2) In subsection (1), “flavourings” means any products falling within CN Code 3302 of the Combined Nomenclature established by Council Regulation (EEC) No. 2658/87 [OJ No. L.256, 7.9.87, p.1] as amended by Commission Regulation (EC) No. 1832/2002 [OJ No. L.290, 28.10.2002, p.3].<sup>22</sup>

## 6 Exemption from duty of spirits in articles used for medical purposes

[P1979/4/7]

Duty shall not be payable on any spirits contained in an article imported or delivered from warehouse which is recognised by the Treasury as being used for medical purposes.

## 7 Remission of duty in respect of spirits used for medical or scientific purposes

- (1) Where a person proposes to use spirits —
  - (a) in the manufacture or preparation of any article recognised by the Treasury as being an article used for medical purposes; or
  - (b) for scientific purposes,the Treasury may, if it thinks fit and subject to such conditions as it sees fit to impose, authorise that person to receive, and permit the delivery from warehouse to that person of, spirits for that use without payment of the duty chargeable thereon.
- (2) If any person contravenes or fails to comply with any condition imposed under this section his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>23</sup>
- (3) Subsection (4) applies if —
  - (a) spirits are received and delivered in accordance with subsection (1),
  - (b) they are not used as proposed, and
  - (c) it is not shown to the satisfaction of the Treasury that they can be accounted for by natural waste or other legitimate cause.<sup>24</sup>
- (4) In such a case the Treasury —
  - (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1), and
  - (b) may notify him or his representative accordingly.<sup>25</sup>

**8 [Repealed]<sup>26</sup>****9 Remission of duty on spirits for use in art or manufacture**

[P1979/4/10]

- (1) Where, in the case of any art or manufacture carried on by any person in which the use of spirits is required, it is proved to the satisfaction of the Treasury that the use of denatured alcohol is unsuitable or detrimental, the Treasury may, if it thinks fit and subject to such conditions as it sees fit to impose, authorise that person to receive, and permit the delivery from warehouse to that person, of spirits for use in that art or manufacture without payment of the duty chargeable thereon.<sup>27</sup>
- (2) If any person contravenes any condition imposed under this section his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>28</sup>
- (3) Subsection (4) applies if —
  - (a) spirits are received and delivered in accordance with subsection (1),
  - (b) they are not used as proposed, and
  - (c) it is not shown to the satisfaction of the Treasury that they can be accounted for by natural waste or other legitimate cause.<sup>29</sup>
- (4) In such a case the Treasury —
  - (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1), and
  - (b) may notify him or his representative accordingly.<sup>30</sup>

**10 Relief from duty on imported goods not for human consumption containing spirits**

[P1979/4/11]

- (1) On the importation of any goods not for human consumption containing spirits as part or ingredient thereof, the Treasury may, subject to such conditions as it may think fit to impose, direct the goods to be treated for the purposes of the charge of duty on spirits (and in particular the charge under section 132 of the *Management Act*) as not containing spirits.
- (2) Subsection (3) applies if —
  - (a) the Treasury make a direction under subsection (1), but
  - (b) it turns out that the goods were for human consumption.<sup>31</sup>
- (3) In such a case the Treasury —

- (a) may assess as being excise duty due from the relevant person an amount equal to the duty that would have been chargeable on the goods if the direction had not been made, and
  - (b) may notify him or his representative accordingly.<sup>32</sup>
- (4) The reference in subsection (3) to the relevant person is to the importer or (if different) the person who sought the direction.<sup>33</sup>

### *Manufacture of spirits*

## **11 Licence to manufacture spirits**

[P1979/4/12]

- (1) No person shall manufacture spirits, whether by distillation of a fermented liquor or by any other process, unless he holds an excise licence granted by the Treasury for that purpose under this section (referred to in this Act as a “distiller’s licence”).
- (2) A licence granted under this section shall expire at the end of November next after it is granted.
- (3) On any licence granted under this section there shall be charged an excise licence duty of £50.<sup>34</sup>
- (4) [Repealed]<sup>35</sup>
- (5) Where the largest still to be used on any premises in respect of which a distiller’s licence is sought for the manufacture of spirits by distillation of a fermented liquor is of less than 18 hectolitres capacity, the Treasury may refuse to grant the licence or may grant it only subject to such conditions as it sees fit to impose.

## **12 Power to make regulations relating to manufacture of spirits**

[P1979/4/13]

- (1) The Treasury may, with a view to the protection of the revenue, make regulations —
  - (a) regulating the manufacture of spirits, whether by distillation of a fermented liquor or by any other process;
  - (b) for securing and collecting the duty on spirits manufactured in the Island; and
  - (c) regulating the removal of spirits from a distillery.
- (2) Without prejudice to the generality of subsection (1), regulations under that subsection may —
  - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and



- (b) impose or provide for the imposition of requirements on a manufacturer of spirits to keep and preserve records relating to his business as such a manufacturer and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.
- (3) Where any documents removed under the powers conferred by subsection (2)(b) are lost or damaged, the Treasury shall be liable to compensate their owner for any expense reasonably incurred by him in replacing or repairing the documents.
- (4) Where —
- (a) the Treasury is satisfied that any process of manufacture carried on by any person involving the manufacture of spirits is primarily directed to the production of some article other than spirits; or
- (b) the Treasury sees fit in the case of any person manufacturing spirits by any process other than distillation of a fermented liquor, it may direct that, subject to compliance with such conditions as it thinks proper to impose, such of the provisions of this Act relating to the manufacture of, or manufacturers of, spirits or such of any regulations made under this section as may be specified in the direction shall not apply in the case of that person.
- (5) If the Treasury so directs, spirits manufactured by a process to which a direction under subsection (4) applies shall be treated as not being within the charge of duty on spirits under section 4.
- (6) If, save as provided in subsection (4), any person contravenes any regulation made under subsection (1) or with any condition, restriction or requirement imposed under such a regulation his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties), and any spirits, and any vessels, utensils and materials used for distilling or otherwise manufacturing or for preparing spirits, in respect of which any person contravenes any such regulation, condition, restriction or requirement, shall be liable to forfeiture.<sup>36</sup>
- (7) [Repealed]<sup>37</sup>
- (8) If any person in whose case a direction is given by the Treasury under subsection (4) acts in contravention of any condition imposed under that subsection which is applicable in his case, his contravention 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 condition shall be liable to forfeiture.<sup>38</sup>

**13 [Repealed]<sup>39</sup>****14 Distiller's warehouse**

[P1979/4/15]

- (1) A distiller may provide in association with his distillery a place of security for the deposit of spirits manufactured at that distillery and, if that place is approved by the Treasury and entry is made thereof by the distiller, may deposit therein without payment of duty any spirits so manufactured.
- (2) The Treasury may approve such place of security for such periods and subject to such conditions as it thinks fit.
- (3) A place of security for the time being approved by the Treasury under subsection (2) is referred to in this Act as a "distiller's warehouse".
- (4) [Repealed]<sup>40</sup>
- (5) Where, after the approval of a distiller's warehouse, the distiller by whom it is provided makes, without the previous consent of the Treasury, 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).<sup>41</sup>
- (6) The Treasury may make regulations —
  - (a) regulating the warehousing of spirits in a distiller's warehouse;
  - (b) permitting, in so far as it appears to it necessary in order to meet the circumstances of any special case and subject to such conditions as it sees fit to impose, the deposit by a distiller in his distiller's warehouse without payment of duty of spirits other than spirits manufactured at the distillery associated with that warehouse;
  - (c) for securing the duties on spirits so warehoused;and subject to any such regulations, the provisions of Parts VII and X of the Management Act, except sections 93 and 97, shall apply in relation to a distiller's warehouse and spirits warehoused therein as they apply in relation to an excise warehouse approved under subsection (1) of section 93 of that Act and goods warehoused therein.
- (7) If any person contravenes any regulation made under subsection (6), or any condition imposed under such a regulation his contravention 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 condition, shall be liable to forfeiture.<sup>42</sup>
- (8) [Repealed]<sup>43</sup>
- (9) The Treasury may at any time for reasonable cause revoke or vary the terms of its approval of a distiller's warehouse.

**15 Racking of duty-paid spirits at distillery**

[P1979/4/16]

- (1) The Treasury may, with a view to the protection of the revenue, make regulations regulating the racking at a distillery of duty-paid spirits.
- (2) If any person contravenes any regulation made under this section, his contravention 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 condition, shall be liable to forfeiture.<sup>44</sup>
- (3) If on an officer's taking stock of duty-paid spirits racked at a distillery, a greater quantity of alcohol is found at the place of racking than ought to be there according to any accounts required by regulations made under this section to be kept thereof, then —
  - (a) duty shall be charged on the excess; and
  - (b) if the excess amounts to more than 1 per cent. of the quantity of alcohol lawfully brought into the place of racking since stock was last taken, such quantity of spirits as contain an amount of alcohol equal to that excess shall be liable to forfeiture, and there shall be deemed to have been conduct by the distiller attracting a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>45</sup>
- (4) Subsection 3(b) shall not apply where the excess of alcohol is less than 3 litres.

**16 Offences in connection with removal of spirits from distillery, etc**

[P1979/4/17]

- (1) If any person —
  - (a) conceals in, or without the consent of the proper officer removes from, a distillery any wort, wash, low wines, feints or spirits; or
  - (b) knowingly buys or receives any wort, wash, low wines, feints or spirits so concealed or removed: or
  - (c) knowingly buys or receives or has in his possession any spirits which have been removed from the place where they ought to have been charged with duty before the duty payable thereon has been charged and either paid or secured, not being spirits which have been condemned or are deemed to have been condemned as forfeited,he shall be guilty of an offence under this section and may be arrested, and the goods shall be liable to forfeiture.<sup>46</sup>
- (2) A person guilty of an offence under this section shall be liable —

- (a) on summary conviction, to a fine of £5,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or<sup>47</sup>
- (b) on conviction on information, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.

*Rectifying and compounding of spirits*

## 17 Rectifier's and compounder's licences

[P1979/4/18]

- (1) No person shall rectify or compound spirits and keep a still for that purpose unless he holds an excise licence granted by the Treasury under this section as a rectifier.
- (2) Except as permitted by the Treasury and subject to such conditions as it sees fit to impose, no other person shall compound spirits unless he holds an excise licence granted by the Treasury under this section as a compounder.
- (3) Any licence granted under this section shall expire at the end of November next after it is granted.
- (4) On any licence granted under this section there shall be charged an excise licence duty of £50.<sup>48</sup>
- (5) ....<sup>49</sup>
- (6) Without prejudice to section 24 and except as provided by this section, if any person rectifies or compounds spirits otherwise than under and in accordance with an excise licence under this Act so authorising him, his doing so shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>50</sup>

## 18 Regulation of rectifying and compounding

[P1979/4/19]

- (1) The Treasury may, with a view to the protection of the revenue, make regulations —
  - (a) regulating the rectifying and compounding of spirits;
  - (b) regulating the receipt, storage, removal and delivery of spirits by rectifiers and compounders.
- (2) Without prejudice to the generality of subsection (1), regulations under that subsection may —
  - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and

- (b) impose or provide for the imposition under the regulations of requirements on rectifiers and compounders of spirits to keep and preserve records relating to their business as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.
- (3) Where any documents removed under the powers conferred by subsection (2) are lost or damaged the Treasury shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.
- (4) If any person contravenes any regulation made under this section, or any condition, restriction or requirement imposed under any such regulation, his contravention 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, condition, requirement or restriction, shall be liable to forfeiture.<sup>51</sup>
- (5) [Repealed]<sup>52</sup>

## 19 Penalty for excess or deficiency in rectifier's stock

[P1979/4/20]

- (1) If at any time when an account is taken by an officer and a balance struck of the spirits in the stock of a rectifier any excess of alcohol is found, such a quantity of spirits as contains an amount of alcohol equal to the excess shall be liable to forfeiture and there shall be deemed to have been conduct by the rectifier attracting a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>53</sup>
- (2) If at any time when an account is taken and a balance struck as aforesaid any deficiency of alcohol is found which cannot be accounted for to the satisfaction of the Treasury and which exceeds 5 per cent. of the aggregate of —
  - (a) the quantity of alcohol in the balance of spirits struck when an account was last taken; and
  - (b) the quantity of alcohol contained in any spirits since lawfully received by the rectifier,there shall be deemed to have been conduct by the rectifier attracting a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>54</sup>
- (3) For the purposes of any such account and of this section —
  - (a) spirits used by rectifier in a warehouse in pursuance of warehousing regulations shall be deemed not to be spirits in his stock as a rectifier; and

- (b) where a rectifier also carries on the trade of a wholesaler of spirits on the same premises, all spirits in his possession (other than spirits so used) shall be deemed to be spirits in his stock as a rectifier.

20 **[Repealed]**<sup>55</sup>

21 **[Repealed]**<sup>56</sup>

[P1979/4/22]

22 **[Repealed]**<sup>57</sup>

*General provisions relating to manufacture of spirits and British compounds*

23 **[Repealed]**<sup>58</sup>

24 **Penalty for unlawful manufacture of spirits, etc**

[P1979/4/25]

- (1) Save as provided by or under this Act, any person who, otherwise than under and in accordance with an excise licence under this Act so authorising him —
- (a) manufactures spirits, whether by distillation of a fermented liquor or by any other process; or
  - (b) has in his possession or uses a still for distilling, rectifying or compounding spirits; or
  - (c) distils or has in his possession any low wines or feints; or
  - (d) not being a vinegar-maker, produces or makes or has in his possession any wort or wash fit for distillation,<sup>59</sup>

shall be guilty of an offence and shall be liable on summary conviction to a fine of £5,000.<sup>60</sup>

- (2) Where there is insufficient evidence to convict a person of an offence under subsection (1), but it is proved that such an offence has been committed on some part of premises belonging to or occupied by that person in such circumstances that it could not have been committed without his knowledge, that person shall be guilty of an offence and shall be liable on summary conviction to a fine of £1,000.<sup>61</sup>
- (3) Any person found on premises on which spirits are being unlawfully manufactured or on which a still is being unlawfully used for rectifying or compounding spirits may be arrested.<sup>62</sup>
- (4) All spirits and stills, vessels, utensils, wort, wash and other materials for manufacturing, distilling or preparing spirits —

- (a) found in the possession of any person who commits an offence under subsection (1); or
  - (b) found on any premises on which such an offence has been committed,
- shall be liable to forfeiture.
- (5) Notwithstanding any other provision of the Customs and Excise Acts 1986 relating to goods seized as liable to forfeiture, any officer by whom any thing is seized as liable to forfeiture under subsection (4) may at his discretion forthwith spill, break up or destroy that thing.

*General provisions relating to spirits*

**25 [Repealed]<sup>63</sup>**

**26 [Repealed]<sup>64</sup>**

**27 [Repealed]<sup>65</sup>**

**28 Restrictions on use of certain goods relieved from spirits duty**

[P1979/4/33]

- (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 Treasury as being used for medical purposes; or
  - (b) any article containing spirits which were exempted from duty under section 6; or
  - (c) any article manufactured or prepared from spirits in respect of which remission of duty has been obtained under section 7;<sup>66</sup>
  - (d) [Repealed]<sup>67</sup>
- his doing so shall unless he has complied with the requirements specified in subsection (2), attract a penalty under section 9 of the *Finance Act 1994* (civil penalties), 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.<sup>68</sup>
- (2) The requirements with which a person must comply to avoid incurring liability under subsection (1) are that —
- (a) he must obtain the consent of the Treasury in writing to the use of the mixture or article otherwise than for the medical or scientific purpose; and

- (b) he must pay to the Treasury 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), or to the amount of the duty remitted, as the case may be.<sup>69</sup>
- (3) The Treasury may make regulations for the purpose of enforcing the provisions of this section.
- (4) Regulations under subsection (3) 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 Treasury 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 any regulation made under subsection (3) his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>70</sup>
- (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.

## 29 Prohibition of grogging

[P1979/4/34]

- (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) A contravention of this section shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>71</sup>
- (3) All spirits extracted contrary to this section and every cask which is being subject to any such process or which, being upon premises upon which spirits so extracted are found, has been subject to any such process shall be liable to forfeiture.



30 [Repealed]<sup>72</sup>**PART III – BEER***Charge of excise duty***31 General beer duty**<sup>73</sup>

(1) There shall be charged on beer —

- (a) imported into the Island, or
- (b) produced in the Island,

a duty of excise at the rates specified in subsection (1AA).<sup>74</sup>

(1ZAA) The duty charged by subsection (1) is referred to in this Act as “**general beer duty**”.<sup>75</sup>

(1AA) The rates at which general beer duty<sup>76</sup> shall be charged are —

- (za) in the case of beer that is of a strength which exceeds 1.2 per cent. but does not exceed 2.8 per cent., £8.10 per hectolitre per cent. of alcohol in the beer;<sup>77</sup>
- (a) in the case of beer that is of a strength which exceeds 2.8 per cent. and is not small brewery beer, £18.37 per hectolitre per cent. of alcohol in the beer;<sup>78</sup>
- (b) in the case of small brewery beer that is a of strength which exceeds 2.8 per cent. and is produced in a singleton brewery, the rate per hectolitre per cent. of alcohol in the beer that is given by section 31D;<sup>79</sup>
- (c) in the case of small brewery beer that is a of a strength which exceeds 2.8 per cent. and is produced in a co-operated brewery, the rate per hectolitre per cent. of alcohol in the beer that is given by section 31F.<sup>80 81</sup>

(1A) No general beer duty shall be chargeable under subsection (1) on beer which is of a strength of 1.2 per cent. or less; but any such beer shall in all other respects be treated as if it were chargeable with a duty of excise.<sup>82</sup>

(2) Subject to the provisions of this Act —

- (a) general beer duty on beer produced in, or imported into, the Island shall be charged and paid, and<sup>83</sup>
- (b) the amount chargeable in respect of any such duty shall be determined and become due,

in accordance with regulations under section 44 of this Act and section 143A of the *Customs and Excise Management Act 1986*.<sup>84</sup>

*Beer from small breweries*<sup>85</sup>**31A Beer from small breweries: introductory**

- (1) For the purposes of section 31(1AA) (but subject to subsection(2)) —
  - (a) whether beer produced in a singleton brewery is “small brewery beer” is determined in accordance with section 31C, and
  - (b) whether beer produced in a co-operated brewery is “small brewery beer” is determined in accordance with section 31E.
- (2) Beer is not small brewery beer if it is produced by a person on any premises in circumstances in which he is required to be, but is not, registered under section 42 in respect of those premises.<sup>86</sup>

**31B Interpretation of provisions relating to small brewery beer**

- (1) The following provisions of this section have effect for the purposes of section 31(1AA), section 31A, this section and sections 31C to 31F.
- (2) A brewery is a “**singleton brewery**” at any particular time in a calendar year if it is not a co-operated brewery at that time.
- (3) A brewery is a “**co-operated brewery**” at any particular time in a calendar year if —
  - (a) a person who produces beer in the brewery at that time or any earlier time in that year, or
  - (b) a person connected with such a person,
 

also produces beer in any other brewery at that time or any earlier time in that year.
- (4) “**Brewery**” means premises (whether or not in the Island) on which beer is produced and that are situated physically apart from any other premises on which beer is produced.
- (5) “**The standard beer duty rate**” means the rate of general beer duty specified by section 31(1AA)(a)<sup>87</sup>.
- (6) References to “**the grossed-up amount**” of an estimate of the amount of a brewery’s production in a calendar year are to the amount given by —

$$\frac{E}{(365 - N)} \times 365$$

where —

E is the amount of the estimate, and

N is the number of days (if any) in the calendar year before the brewery begins to be used as beer-production premises.

- (7) References to a brewery being used as beer-production premises are, in the case of a brewery in the Island, to there being at least one person who is required to be registered under section 42 in respect of the brewery.
- (8) Any question whether a person is connected with another shall be determined in accordance with section 119C of the *Income Tax Act 1970*.<sup>88</sup>

### 31C Meaning of “small brewery beer”: beer from singleton breweries

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (9) and (10).
- (3) The first condition is that either —
- (a) no beer was produced in the brewery in the previous calendar year (“the previous year”), or
  - (b) the amount of beer produced in the brewery in the previous year was not more than 60,000 hectolitres.<sup>89</sup>

- (4) For the purposes of subsection (3)(b), where the brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in the brewery shall be taken to have been —

$$\frac{A}{D} \times 365$$

where —

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

- (5) The second condition is that the amount of the estimate under subsection (9) of the brewery’s production in the current year is not more than 60,000 hectolitres.<sup>90</sup>
- (6) The third condition is that if the brewery begins to be used as beer-production premises part-way through the current year, the grossed-up amount of that estimate is not more than 60,000 hectolitres.<sup>91</sup>
- (7) The fourth condition is that less than half of the beer produced in the brewery in the previous year was produced under licence.
- (8) The fifth condition is that the beer is not produced under licence.
- (9) Beer produced in the brewery in the current year before the person who first produces beer in the brewery in that year has made a reasonable estimate of the amount of beer that will be produced in the brewery in that year is not small brewery beer.

- (10) Beer produced in the brewery in the current year after the amount of beer produced in the brewery in the current year has reached 60,000 hectolitres is not small brewery beer.<sup>92</sup>
- (11) Subsection (10) is without prejudice to section 175(4) of the *Customs and Excise Management Act 1986* (recovery of duty unpaid by reason of untrue document or statement).<sup>93</sup>

### 31D Rate of general beer duty for small brewery beer (other than lower strength beer) from singleton breweries<sup>94</sup>

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.
- (2) The rate of general beer duty in the case of that beer (“**the brewery rate**”) is determined in accordance with this section, unless the beer is within section 31(1AA)(za) (rate for lower strength beer)<sup>95</sup>.
- (3) Subsection (4) applies if —
- (a) beer was produced in the brewery in the previous calendar year (“the previous year”) and the amount produced in the brewery in that year was not more than 5,000 hectolitres, or
  - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 31C(9) of the brewery’s production in the current year is not more than 5,000 hectolitres.
- (4) If this subsection applies, “the brewery rate” is 50% of the standard beer duty rate at the time concerned; but this is subject to rounding under subsection (7).
- (5) Subsection (6) applies if —
- (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 5,000 hectolitres but not more than 30,000 hectolitres, or
  - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 31C(9) of the brewery’s production in the current year is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (6) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (7), given by —

$$\frac{P - 2,500}{P} \times \text{the standard beer duty rate at the time concerned}$$

where —

if this subsection applies by reason of subsection (5)(a), P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and

if this subsection applies by reason of subsection (5)(b), P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (5)(b).

(6A) Subsection (6B) applies if —

- (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 30,000 hectolitres but not more than 60,000 hectolitres, or
- (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 31C of the brewery's production in the current year is more than 30,000 hectolitres but not more than 60,000 hectolitres.<sup>96</sup>

(6B) If this subsection applies, "the brewery rate" is, subject to rounding under subsection (7), given by —

$$\frac{P - (2500 - 8.33\% \text{ of } P \text{ in})}{P} \times \text{the standard beer duty rate at the time concerned}$$

where —

if this subsection applies by reason of subsection (6A)(a), P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and

if this subsection applies by reason of subsection (6A)(b), P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (6A)(b).<sup>97</sup>

(7) Where a rate given by subsection (4), (6) or (6B) would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.<sup>98</sup>

(8) Where the brewery was in use as beer-production premises during part only of the previous year, for the purposes of subsections (3)(a), (5)(a), (6), (6A)(a) and (6B) the amount of beer produced in the brewery in the previous year shall be taken to have been —

$$\frac{A}{D} \times 365$$

where —

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.<sup>99</sup>

**31E Meaning of “small brewery beer”: beer from co-operated breweries**

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (10) and (11).
- (3) In this section —

“the group” means the group of breweries consisting of —

- (a) the co-operated brewery, and
- (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1), or at any earlier time in the current year, by —
  - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
  - (ii) a person connected with such a person;

“group brewery” means a brewery that is in the group;

“the previous year” means the calendar year immediately preceding the current year.

- (4) The first condition is that either —
  - (a) no beer was produced in the previous year in the group, or
  - (b) the amount given by  $PY + GE$  is not more than 60,000 hectolitres, where —

$PY$  is the amount of beer produced in the previous year in the group, and

$GE$  is the aggregate of the grossed-up amount of each estimate that —

- (i) is an estimate for the purposes of subsection (10) of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
  - (ii) is made no later than the time mentioned in subsection (1).<sup>100</sup>
- (5) For the purposes of subsection (4)(b), where a group brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in that brewery shall be taken to have been —

$$\frac{A}{D} \times 365$$

where —

$A$  is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

- (6) The second condition is that the aggregate of each estimate that —
  - (a) is an estimate for the purposes of subsection (10) of the amount of a group brewery's production in the current year, and
  - (b) is made no later than the time mentioned in subsection (1),
 is not more than 60,000 hectolitres.<sup>101</sup>
- (7) The third condition is that if any group brewery begins to be used as beer-production premises part-way through the current year, the aggregate of the grossed-up amount of each estimate that —
  - (a) is an estimate for the purposes of subsection (10) of the amount of a group brewery's production in the current year, and
  - (b) is made no later than the time mentioned in subsection (1),
 is not more than 60,000 hectolitres.<sup>102</sup>
- (8) The fourth condition is that less than half of the beer produced in the previous year in each group brewery was produced under licence.
- (9) The fifth condition is that the beer is not produced under licence.
- (10) Beer produced in the co-operated brewery at an unestimated time is not small brewery beer; and here "unestimated time" means a time in the current year when there is a group brewery for which there does not exist a reasonable estimate, made by the person who first produces beer in that brewery in that year, of the amount of beer that will be produced in that brewery in that year.
- (11) Beer produced in the co-operated brewery in the current year after the amount of beer produced in the group in the current year has reached 60,000 hectolitres is not small brewery beer.<sup>103</sup>
- (12) Subsection (11) is without prejudice to section 175(4) of the *Customs and Excise Management Act 1986* (recovery of duty unpaid by reason of untrue document or statement).<sup>104</sup>

**31F Rate of general beer duty for small brewery beer (other than lower strength beer) from co-operated breweries<sup>105</sup>**

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year ("the current year") when the brewery is a co-operated brewery.
- (2) The rate of general beer duty in the case of that beer ("the brewery rate") is determined in accordance with this section unless the beer is within section 31(1AA)(za) (rate for lower strength beer)<sup>106</sup>.
- (3) In this section —  
 "the group" means the group of breweries consisting of —

- (a) the co-operated brewery, and
- (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1), or at any earlier time in the current year, by —
  - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
  - (ii) a person connected with such a person;

“group brewery” means a brewery that is in the group;

“the previous year” means the calendar year immediately preceding the current year;

“the notional previous year’s production” has the meaning given by subsection (4).

- (4) In this section “the notional previous year’s production” means the amount, in hectolitres, given by  $PY + GE$  where —

$PY$  is the amount of beer produced in the group in the previous year, and  
 $GE$  is the aggregate of the grossed-up amount of each estimate that —

- (a) is an estimate for the purposes of section 31E(10) of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
  - (b) is made no later than the time mentioned in subsection (1).
- (5) Where a group brewery was in use as beer-production premises during part only of the previous year, in calculating  $PY$  for the purposes of subsection (4) the amount of beer produced in that brewery in the previous year shall be taken to have been —

$$\frac{A}{D} \times 365$$

where —

$A$  is the amount of beer actually produced in the previous year in that brewery, and

$D$  is the number of days in that part of the previous year.

- (6) Subsection (7) applies if —
- (a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is not more than 5,000 hectolitres, or
  - (b) no beer was produced in the group in the previous year and the aggregate of each estimate that —
    - (i) is an estimate for the purposes of section 31E(10) of the amount of a group brewery’s production in the current year, and



- (ii) is made no later than the time mentioned in subsection (1), is not more than 5,000 hectolitres.
- (7) If this subsection applies, “the brewery rate” is 50% of the standard rate at the time mentioned in subsection (1); but this is subject to rounding under subsection (10).
- (8) Subsection (9) applies if —
- (a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is more than 5,000 hectolitres but not more than 30,000 hectolitres, or
- (b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (9) If this subsection applies “the brewery rate” is, subject to rounding, under subsection (10), given by —

$$\frac{P - 2,500}{P} \times \text{the standard rate}$$

where —

if this subsection applies by reason of subsection (8)(a), P is the previous year’s notional production,

if this subsection applies by reason of subsection (8)(b), P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b), and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1).

- (9A) Subsection (9B) applies if —
- (a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is more than 30,000 hectolitres but not more than 60,000 hectolitres, or
- (b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) is more than 30,000 hectolitres but not more than 60,000 hectolitres.<sup>107</sup>
- (9B) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (10), given by —

$$\frac{P - (2500 - 8.33\% \text{ of } P \text{ in excess of } 30,000 \text{ hectolitres})}{P} \times \text{the standard rate}$$

where —

if this subsection applies by reason of subsection (9A)(a), P is the previous year’s notional production,

if this subsection applies by reason of subsection (9A)(b), P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b), and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1).<sup>108</sup>

- (10) Where a rate given by subsection (7), (9) or (9B) would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.<sup>109</sup>

### **31G Assessments where incorrectly low rate of duty applied**

- (1) Subsection (3) applies if —
- (a) general beer duty is charged on any beer<sup>110</sup>, and
  - (b) it appears at the excise duty point that the beer is small brewery beer for the purposes of section 31(1AA), but
  - (c) it turns out that the beer was not small brewery beer for those purposes (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (2) Subsection (3) also applies if —
- (a) general beer duty is charged on any beer that is small brewery beer for the purposes of section 31(1AA), and<sup>111</sup>
  - (b) the rate of duty that at the excise duty point appeared to be the correct rate turns out to have been lower than the correct rate (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (3) In any such case the Treasury —
- (a) may assess the amount that is the difference between —
    - (i) the actual amount of the general beer duty charged on the beer by section 31, and
    - (ii) the lower amount that, at the excise duty point, appeared to be the amount charged,
 as being excise duty due from the person liable to pay the duty charged on the beer by section 31,<sup>112</sup> and
  - (b) may notify him or his representative accordingly.
- (4) Where two or more persons are liable to pay the general beer duty<sup>113</sup> charged on the beer —
- (a) the reference in subsection (3)(a) to the person liable to pay that duty is to any one or more of those persons<sup>114</sup>, and
  - (b) the reference in subsection (3)(b) to notifying the person liable or his representative is to notifying each person assessed or his representative.<sup>115</sup>

*Power to vary rates***31H Power to vary reduced rate provisions**

- (1) The Treasury may by order make provision amending this Act for the purpose of causing general beer duty to be charged on a description of beer —
  - (a) at a reduced rate instead of at the standard rate;
  - (b) at the standard rate instead of at a reduced rate;
  - (c) at a different reduced rate.<sup>116</sup>
- (2) In this section —

“reduced rate” means a rate lower than the standard rate; and

“the standard rate” means the rate specified by section 31(1AA)(a).
- (3) An order under subsection (1) may —
  - (a) make different provision for different cases;
  - (b) make such consequential amendments in this Act and other enactments as appear to the Treasury to be necessary or expedient;
  - (c) make such other consequential provision, and such incidental and transitional provision, as appears to the Treasury to be necessary or expedient.<sup>117</sup>

**32 High strength beer duty**

- (1) A duty of excise is charged on high strength beer —
  - (a) imported into the Island; or
  - (b) produced in the Island,on or after 1 October 2011.
- (2) “**High strength beer**” means beer which is of a strength exceeding 7.5 per cent.
- (3) The duty charged by subsection (1) is referred to in this Act as “**high strength beer duty**”.
- (4) High strength beer duty is charged at £5.48 per hectolitre for each one per cent. of alcohol in the beer.<sup>118</sup>
- (5) Subject to the provisions of this Act—
  - (a) the high strength beer duty on beer produced in, or imported into, the Island is to be charged and paid; and
  - (b) the amount chargeable in respect of any duty is to be determined and becomes due,

in accordance with regulations under section 44 and with any regulations under section 143A of the *Customs and Excise Management Act 1986*.<sup>119</sup>

### 33 to 35 [Repealed]<sup>120</sup>

#### *Reliefs from excise duty*

### 36 Exemption from duty of beer produced for private consumption

Neither general beer duty on beer produced in the Island, nor high strength beer duty on beer so produced, is chargeable on beer produced by a person who produces beer only for his own domestic use.<sup>121</sup>

### 36A Suspension of duty: registration of persons and premises

- (1) A person registered by the Treasury under this section may hold, on premises so registered in relation to him, any beer of a prescribed class or description —
  - (a) which has been produced in, or imported into, the Island, and
  - (b) which is chargeable as such with excise duty, without payment of that duty.
- (2) A person entitled under subsection (1) to hold beer on premises without payment of duty may also without payment of duty carry out on those premises such operations as may be prescribed on, or in relation to, such of the beer as may be prescribed.
- (3) No person shall be registered under this section unless —
  - (a) he is a registered brewer or packager of beer; and
  - (b) he appears to the Treasury to satisfy such requirements for registration as it may think fit to impose.
- (4) No premises shall be registered under this section unless —
  - (a) they are used for the production or packaging of beer, or
  - (b) they are adjacent to, and occupied by the same person as, premises falling within paragraph (a) which are registered under this section, and they appear to the Treasury to satisfy such requirements for registration as the Treasury may think fit to impose.
- (5) The Treasury may register a person or premises under this section for such periods and subject to such conditions as it thinks fit.
- (6) The Treasury may at any time for reasonable cause —
  - (a) revoke or vary the terms of its registration of any person or premises under this section; or

- (b) restrict the premises which are so registered.
- (7) As respects beer chargeable with a duty of excise that has not been paid, regulations under section 44 may, without prejudice to the generality of that section, make provision —
- (a) regulating the holding or packaging of, or the carrying out of other operations on or in relation to, any such beer on registered premises without payment of the duty;
- (b) for securing and collecting the duty on any such beer held on registered premises;
- (c) permitting the removal of any such beer from registered premises without payment of duty in such circumstances and subject to such conditions as may be prescribed.
- (8) If any person contravenes or fails to comply with any condition of registration 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 beer in respect of which any person contravenes or fails to comply with any such condition shall be liable to forfeiture.<sup>122</sup>
- (9) In this section —

“prescribed” means specified in, or determined in accordance with, regulations made by the Treasury under section 44;

“registered premises” means premises registered under this section.<sup>123</sup>

### **37 Drawback on exportation, removal to warehouse, shipment as stores, etc**

[P1979/4/42]

- (1) This section applies to —
- (a) beer which has been produced by a registered brewer; and<sup>124</sup>
- (b) beer which has been imported, or which has been removed to the Island from the United Kingdom.
- (2) Subject to the provisions of this section and to such conditions as the Treasury sees fit to impose, drawback shall be allowable —
- (a) [Repealed]<sup>125</sup>
- (b) on the exportation by any person of any beer to which this section applies; or<sup>126</sup>
- (c) on the shipment as stores by any person of any such beer;
- and shall also be allowable, subject as aforesaid, in the case of any beer to which this section applies which it is shown to the satisfaction of the Treasury is being exported or shipped as mentioned in paragraph (b) or (c) as an ingredient of other goods.<sup>127</sup>

- (3) In the case of beer produced in the Island, the person intending to export or ship the beer shall produce to the proper officer a declaration made by the person who paid the duty on the beer, in such form and manner as the Treasury may direct, stating the strength of the beer and the date on which the duty became payable.<sup>128</sup>
- (4) In the case of beer produced outside the Island, the person intending to export or ship the beer shall produce to the proper officer in such form and manner as the Treasury may direct a declaration that the proper duty has been charged and paid thereon.<sup>129</sup>
- (5) The amount of the drawback payable under this section in respect of any duty paid shall be calculated according to the rate of drawback applicable during the period of currency of the rate at which the duty was paid to like beer charged with that rate of duty during that period.
- (6) Drawback under this section shall, where it is shown to the satisfaction of the Treasury that duty has been paid, be allowed at the same rate as the rate at which the duty is charged.<sup>130</sup>

### 38 [Repealed]<sup>131</sup>

### 39 Remission or repayment of duty on beer used for purposes of research or experiment

[P1979/4/44]

- (1) Where it is proved to the satisfaction of the Treasury that any beer produced in the Island which is chargeable with duty is to be used only for the purposes of research or of experiments in the production of beer, the Treasury may, if it thinks fit and subject to such conditions as it sees fit to impose, remit or repay the duty chargeable on that beer.<sup>132</sup>
- (2) If any person contravenes any condition imposed under subsection (1), his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>133</sup>

### 40 Repayment of duty on beer used in the production or manufacture of other beverages, etc

[P1979/4/45]

- (1) The Treasury may by regulations provide for duty charged on beer which is used as an ingredient –
  - (a) in the production of any beverage of an alcoholic strength not exceeding 1.2 per cent.; or<sup>134</sup>
  - (b) [Repealed]<sup>135</sup>

- (c) in the manufacture of any such article (other than a beverage) as the Treasury may determine having regard to its alcoholic content,<sup>136</sup>

to be remitted or repaid subject to such conditions as may be imposed by or under the regulations.<sup>137</sup>

- (2) [Repealed]<sup>138</sup>

#### **41 Remission or repayment of duty on spoilt beer**

- (1) Where it is shown to the satisfaction of the Treasury that any beer which has been removed from any premises of a registered brewer in respect of which he is registered under section 42 below has become spoilt or otherwise unfit for use and, in the case of beer delivered to another person, has been returned to the registered brewer as so spoilt or unfit, the Treasury shall, subject to compliance with such conditions as it may by regulation impose, remit or repay any duty charged or paid in respect of the beer.
- (2) If any person contravenes or fails to comply with any regulation made under subsection (1), his contravention or failure to comply shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>139</sup>

Production of beer

#### **42 Registration of producers of beer**

- (1) A person who produces beer on any premises in the Island must be registered with the Treasury under this section in respect of those premises; and in this Act “registered brewer” means a person registered under this section in respect of any premises.
- (2) A person who produces beer on any premises shall not be required to be registered under this section in respect of those premises if the beer is produced solely for his own domestic use or solely for the purposes of research or experiments in the production of beer.
- (3) An application for the registration under this section of any person required to be so registered in respect of any premises —
- (a) shall be made at least fourteen days before the day on which he begins production of beer on those premises;
  - (b) shall be in such form and manner as the Treasury may by or under regulations prescribe; and
  - (c) shall be accompanied by a registration fee of —
    - (i) in the case of a person who produces not more than 500 hectolitres of beer in each year, £20;
    - (ii) in every other case, £50.

- (4) Any registration granted under this section shall expire on the 31st March next after it is granted.
- (5) If any person fails to apply for registration under this section in circumstances where he is required by subsection (3)(a) to do so, his failure shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties) and any beer or worts produced in contravention of that provision shall be liable to forfeiture.<sup>140</sup>
- (6) If any person produces beer on any premises in circumstances in which he is required to be, but is not, registered under this section in respect of those premises, 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.<sup>141</sup>

### 43 [Repealed]<sup>142</sup>

### 44 Beer regulations

- (1) The Treasury may, with a view to managing, securing and collecting general beer duty or high strength beer duty on beer produced in, or imported into, the Island or to the protection of the revenues derived from any duty of excise on beer, make regulations —
  - (a) regulating the production, packaging, keeping and storage of beer produced in the Island and the packaging, keeping and storage of beer imported into the Island;
  - (b) regulating the registration of persons and premises under section 36A or 42 and the revocation or variation of any such registrations;
  - (c) for determining under or in accordance with the regulations when the production of beer begins and when it is completed;
  - (d) for securing and collecting the duty;
  - (e) for determining the duty and rate thereof and, in that connection, prescribing the method of charging the duty;
  - (f) for charging the duty, in such circumstances as may be prescribed in the regulations, by reference to a strength which the beer might reasonably be expected to have, or the rates of duty in force, at a time other than that at which the beer becomes chargeable;
  - (g) for relieving beer from the duty in such circumstances and to such extent as may be prescribed in the regulations;
  - (h) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing



- of, or the carrying out of other operations on or in relation to, beer;
- (j) regulating the transportation of beer in such circumstances as may be prescribed in the regulations;
  - (k) requiring the production of certificates as to matters relating to beer imported into the Island and the beer's production and producer, whether as alternative conditions for charging the duty on the beer at a rate lower than that specified by section 31(1AA)(a) or as evidence that conditions for charging the duty at such rate are satisfied.<sup>143144</sup>
- (2) Regulations under this section may make different provision for persons, premises or beer of different classes or descriptions, for different circumstances and for different cases.
  - (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.<sup>145</sup>

#### **45 Drawback allowable to registered brewer**

- (1) For the purpose of any claim for drawback by a registered brewer or person registered under section 36A in respect of duty charged on beer, duty which has been determined in accordance with regulations under section 44(1)(e) shall be deemed to be duty which has been paid (whether or not it is in fact paid by the time the claim is made).<sup>146</sup>
- (2) Subject to such conditions as the Treasury sees fit to impose, drawback allowable to a registered brewer or person registered under section 36A in respect of beer may be set against any amount to which he is chargeable in respect of any excise duty on beer, and, in relation to a registered brewer or person registered under section 36A, any reference in this Act or the Management Act to drawback payable shall be construed accordingly.<sup>147</sup>

46 [Repealed]<sup>148</sup>

47 [Repealed]<sup>149</sup>

48 and 49 [Repealed]<sup>150</sup>

## PART IV – WINE AND MADE-WINE

### 50 Wine: charge of excise duty

[P1979/4/54]

(1) There shall be charged on wine —

- (a) imported; or
- (b) produced in the Island for sale;

a duty of excise at the rates shown in Schedule 1 and the duty shall, in so far as it is chargeable on wine produced in the Island, be charged and paid in accordance with regulations under section 52 and with any regulations under section 143A of the *Customs and Excise Management Act 1986*.<sup>151</sup>

(2) For the purposes of this Act, the process of blending or otherwise mixing two or more wines (in this subsection referred to as “the constituent wines”) constitutes the production of wine if —

- (a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others; and
- (b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines; and
- (c) the blending or other mixing is with a view to dealing wholesale in the wine which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any wine is that which it would be chargeable under subsection (1) on its importation into the Island, its removal to the Island or on its production as mentioned in that subsection, as the case may be.

(3) Where, by virtue of subsection (2) wine is produced in the Island, duty shall be chargeable on that wine by virtue of paragraph (b) of subsection (1) whether or not duty was previously charged on all or any of the constituent wines by virtue of paragraphs (a) and (b) of that subsection; but nothing in this subsection shall affect the operation of any regulations under section 52 giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.

- (4) A person who, on any premises produces wine of a strength not exceeding 5.5 per cent. by rendering it sparkling, need not on that account hold an excise licence under section 52(1)(a) in respect of those premises.<sup>152</sup>

## 51 Made-wine: charge of excise duty

[P1979/4/55]

- (1) There shall be charged on made-wine —
- (a) imported; or
  - (b) produced in the Island for sale,
- a duty of excise at the rates shown in Schedule 1 and the duty shall, in so far as it is chargeable on made-wine produced in the Island, be charged and paid in accordance with regulations under section 52 and with any regulations under section 143A of the *Customs and Excise Management Act 1986*.<sup>153</sup>
- (2) Duty shall not be chargeable where made-wine is produced for sale by any person on any premises so long as all the following conditions are satisfied in relation to the production of made-wine on those premises, that is to say —
- (aa) he does not blend or otherwise mix two or more alcoholic liquors to which paragraphs (a) and (b) of section 60A(1) or paragraphs (a) and (b) of 60A(2) apply;<sup>154</sup>
  - (a) the duty chargeable on each alcoholic ingredient used by him has become payable before he uses it;
  - (b) the ingredients he uses do not include cider;<sup>155</sup>
  - (c) he does not increase by fermentation the alcoholic strength of any liquor or substance used by him; and
  - (d) he does not render sparkling any made-wine other than made-wine of a strength not exceeding 5.5 per cent..<sup>156</sup>
  - (e) [Repealed]<sup>157</sup>
- (3) A person who, on any premises, produces made-wine of a strength not exceeding 5.5 per cent. by rendering it sparkling, need not on that account hold an excise licence under section 52(1)(a) in respect of those premises.<sup>158</sup>
- (4) [Repealed]<sup>159</sup>

**51A [Repealed]<sup>160</sup>****51B Cider labelled as made-wine**

- (1) For the purposes of this Act, any liquor which would apart from this section be cider and which —
  - (a) is in an up-labelled container, or
  - (b) has at any time after 31st December 1996 when it was in the Island been in an up-labelled container,shall be deemed to be made-wine, and not cider.
- (2) Accordingly, references in this Act to producing made-wine include references to —
  - (a) putting cider in an up-labelled container; or
  - (b) causing a container in which there is cider to be up-labelled.
- (3) For the purposes of this Act, where any liquor is deemed by this section to be made-wine, it shall be deemed —
  - (a) if it is in an up-labelled container, to be made-wine of the strength that the labelling for the container states or tends to suggest; and
  - (b) if it is no longer in an up-labelled container, to be made-wine of the strength stated or suggested by the labelling for the up-labelled container in which it was contained when it was first deemed by this section to be made-wine.
- (4) Subsection (3)(a) has effect subject to any provision that may be made by regulations under section 2(3).
- (5) Where, by virtue of this section, any duty is charged under section 51 on any liquor, a rebate shall be allowed in respect of the amount of any duty charged on that liquor under section 62.
- (6) For the purpose of this section a container is up-labelled if the labelling for the container states or tends to suggest that the strength of any liquor in that container is or exceeds 8.5 per cent.
- (7) In this section references to the labelling for any container are references to anything on —
  - (a) the container itself,
  - (b) a label or leaflet attached to or used with the container, or
  - (c) any packaging used for or in association with the container.<sup>161</sup>

## 52 Power to regulate making of wine and made-wine and provide for charging duty thereon

[P1979/4/56]

- (1) The Treasury may with a view to managing the duties on wine and made-wine produced in the Island for sale make regulations —
  - (a) prohibiting the production of wine and made-wine for sale otherwise than under and in accordance with an excise licence issued by the Treasury;
  - (b) prescribing excise licence duty for the grant of an excise licence for the production of wine and made-wine for sale;
  - (c) regulating the production of wine and made-wine for sale;
  - (d) for determining the duty and rates thereof and in that connection prescribing the method of charging the duty;
  - (e) prohibiting or restricting the use of wine or cider in the production of made-wine;<sup>162</sup>
  - (f) for securing and collecting the duty;
  - (g) for relieving wine or made-wine from the duty in such circumstances and to such extent as may be prescribed in the regulations.
- (2) If any person contravenes any regulation made under this section, his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties), and any article in respect of which any person contravenes any such regulation shall be liable to forfeiture.<sup>163</sup>

## 53 Mixing of made-wine and spirits in warehouse

[P1979/4/57]

The Treasury may, subject to such conditions as it sees fit to impose, permit the mixing in an excise warehouse with made-wine (whether imported into or produced in the Island or removed to the Island from the United Kingdom) of duty-free spirits in a proportion not exceeding 12 litres of alcohol to 1 hectolitre of made-wine, so, however, that the mixture shall not by virtue of this section be raised to a greater strength than 22 per cent.<sup>164</sup>

## 54 Mixing of wine and spirits in warehouse

[P1979/4/58]

- (1) The Treasury may, subject to such conditions as it sees fit to impose, permit the mixing in an excise warehouse with wine (whether imported into or produced in the Island or removed to the Island from the United Kingdom) of duty-free spirits in a proportion not exceeding 12 litres of alcohol to 1 hectolitre of wine so, however, that the mixture shall not, by virtue of this section, be raised to a greater strength than 22 per cent.<sup>165</sup>

(2) [Repealed]<sup>166</sup>

## 55 Rendering imported wine or made-wine sparkling in warehouse

[P1979/4/59]

- (1) Wine or made-wine which —
- (a) is imported or is removed to the Island from the United Kingdom; and
  - (b) is wine or made-wine of a strength exceeding 5.5 per cent.,<sup>167</sup>

shall not be rendered sparkling, whether by aeration, fermentation or any other process, except in warehouse in accordance with warehousing regulations.<sup>168</sup>

- (2) Where any person contravenes subsection (1) 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).<sup>169</sup>
- (3) All imported wine and made-wine rendered or being rendered sparkling in contravention of subsection (1), and all machinery, utensils, bottles and materials (including wine or made-wine) used or intended to be used in any process for rendering any wine or made-wine sparkling in contravention of that subsection shall be liable to forfeiture.

## 56 Repayment of duty on imported wine or made-wine used in the production or manufacture of other beverages, etc

[P1979/4/60]

- (1) The Treasury may by regulations provide for duty charged on imported wine or imported made-wine which is used as an ingredient in the production or manufacture of —
- (a) any beverage of an alcoholic strength not exceeding 1.2 per cent.; or
  - (b) any such article (other than a beverage) as the Treasury may determine having regard to the alcoholic content thereof,

to be repaid subject to such conditions as may be imposed by or under the regulations.

- (1A) Any duty chargeable on imported wine or made-wine of a strength not exceeding 1.2 per cent. may be remitted subject to such conditions as the Treasury may impose.<sup>170</sup>
- (2) The Treasury may by regulations provide for duty charged on imported wine which converted into vinegar to be repaid subject to such conditions as may be imposed by or under the regulations.

**57 Remission or repayment of duty on spoilt wine or made-wine**

[P1979/4/61]

- (1) Where it is shown to the satisfaction of the Treasury that any wine or made-wine which has been removed from the premises of a producer of wine or of made-wine has accidentally become spoilt or otherwise unfit for use and, in the case of wine or made-wine delivered to another person, has been returned to the producer as so spoilt or unfit, the Treasury shall, subject to compliance with such conditions as it may by regulations impose, remit or repay any duty charged or paid in respect of the wine or made-wine.
- (2) If any person contravenes any regulation made under subsection (1), his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>171</sup>

**PART V – CIDER****58 Excise duty on cider**

[P1979/4/62]

- (1) There shall be charged on cider —
  - (a) imported; or
  - (b) made in the Island for sale,a duty of excise at the rates as shown in subsection (1A).<sup>172</sup>
- (1A) The rates at which the duty shall be charged are —
  - (a) £58.75 per hectolitre in the case of cider of a strength exceeding 7.5 per cent. which is not sparkling cider;<sup>173</sup>
  - (aa) £264.61 per hectolitre in the case of sparkling cider of a strength exceeding 5.5 per cent.; and<sup>174</sup>
  - (b) £38.87 per hectolitre in any other case.<sup>175 176</sup>
- (2) No duty shall be chargeable under subsection (1)(b) in respect of any cider made by any maker of cider whose production does not exceed 70 hectolitres in a period of 12 consecutive months.<sup>177</sup>
- (3) The Treasury may with a view to managing the duty on cider made in the Island make regulations —
  - (a) prohibiting the making of cider for sale otherwise than under and in accordance with an excise licence issued by the Treasury;
  - (b) prescribing excise licence duty for the grant of an excise licence to make cider for sale;
  - (c) regulating the making of cider for sale;

- (d) for determining the duty and the rate thereof and in that connection prescribing the method of charging the duty;
  - (e) for securing and collecting the duty;
  - (f) for relieving cider from the duty in such circumstances and to such extent as may be prescribed in the regulations;
  - (g) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on, or in relation to, cider.<sup>178</sup>
- (4) If any person contravenes any regulation made under subsection (3), 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 and any article in respect of which any person contravenes any such regulation shall be liable to forfeiture.<sup>179</sup>
- (5) References in this section to making cider shall be construed as including references to producing sparkling cider by rendering cider sparkling; and references in this section to cider made in the Island, to makers of cider and to making cider for sale shall be construed accordingly.<sup>180</sup>

#### 58A Meaning of “sparkling” etc in section 58

- (1) This section applies for the purposes of section 58.
- (2) Cider which is for the time being in a closed bottle is sparkling if, due to the presence of carbon dioxide, the pressure in the bottle, measured at a temperature of 20 degrees C, is not less than 3 bars in excess of atmospheric pressure.
- (3) Cider which is for the time being in a closed bottle is sparkling regardless of the pressure in the bottle if the bottle has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.
- (4) Cider which is not for the time being in a closed container is sparkling if it has characteristics similar to those of a cider which has been removed from a closed bottle and which, before removal, fell within subsection (2).
- (5) Cider shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either —
  - (a) falls within subsection (2); or
  - (b) takes on characteristics similar to those of cider which has been removed from a closed bottle and which, before removal, fell within subsection (2).
- (6) Cider which has not previously been rendered sparkling by virtue of subsection (5) shall be regarded as having been rendered sparkling if it is



transferred into a closed bottle which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

- (7) Cider which is in a closed bottle and has not previously been rendered sparkling by virtue of subsection (5) or (6) shall be regarded as having been rendered sparkling if the stopper of its bottle is exchanged for a stopper of a kind mentioned in subsection (6).<sup>181</sup>

### **58B Cider labelled as strong cider**

- (1) For the purposes of this Act, any liquor which would apart from this section be standard cider and which —
- (a) is in an up-labelled container, or
  - (b) has at any time after 31st December 1996 when it was in the Island been in an up-labelled container,
- shall be deemed to be strong cider, and not standard cider.
- (2) Accordingly, references in this Act to making cider include references to —
- (a) putting standard cider in an up-labelled container; or
  - (b) causing a container in which there is standard cider to be up-labelled.
- (3) Where, by virtue of this section, any duty is charged under section 58 on any cider, a rebate shall be allowed in respect of the amount of any duty charged on that cider under that section otherwise than by virtue of this section.
- (4) For the purposes of this section —
- (a) “standard cider” means cider which is not sparkling and is of a strength not exceeding 7.5 per cent.; and
  - (b) “strong cider” means cider which is not sparkling and is of a strength exceeding 7.5 per cent.
- (5) For the purposes of this section a container is up-labelled if there is anything on —
- (a) the container itself,
  - (b) a label or leaflet attached to or used with the container, or
  - (c) any packaging used for or in association with the container,
- which states or tends to suggest that the strength of any liquor in that container falls within the strong cider strength range.
- (6) For the purposes of subsection (5), a strength falls within the strong cider strength range if it exceeds 7.5 per cent. but is less than 8.5 per cent.<sup>182</sup>

**59 Repayment of duty on imported cider used in the production or manufacture of other beverages, etc**

[P1979/4/63]

- (1) The Treasury may by regulations provide for duty charged on imported cider which is used as an ingredient in the production or manufacture of —
  - (a) any beverage of an alcoholic strength not exceeding 1.2 per cent.;  
or
  - (b) any such article (other than a beverage) as the Treasury may determine having regard to the alcoholic content thereof,to be repaid subject to such conditions as may be imposed by or under the regulations.
- (2) Any duty chargeable on imported cider of a strength not exceeding 1.2 per cent. may be remitted subject to such conditions as the Treasury may impose.<sup>183</sup>

**60 Remission or repayment of duty on spoilt cider**

[P1979/4/64]

- (1) Where it is shown to the satisfaction of the Treasury that any cider which has been removed from the premises of a maker of cider has accidentally become spoilt or otherwise unfit for use and, in the case of cider delivered to another person, has been returned to the maker as so spoilt or unfit, the Treasury shall, subject to compliance with such conditions as it may by regulations impose, remit or repay any duty charged or paid in respect of the cider.
  - (1A) In subsection (1) the references to a maker of cider include references to any person who is taken for the purposes of section 58 to be a maker of cider.<sup>184</sup>
- (2) If any person contravenes any regulation made under subsection (1), his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>185</sup>

**PART VI – GENERAL CONTROL PROVISIONS***Sale of dutiable alcoholic liquors***60A Blending of alcoholic liquors**

- (1) Subject to subsections (4) to (6), a person shall not blend two or more alcoholic liquors —
  - (a) each of which is of a kind mentioned in paragraphs (a) to (e) of section 1(1), but

- (b) not all of which fall within the same one of those paragraphs, except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.
- (2) Subject to subsections (4) to (6), a person shall not blend two or more alcoholic liquors which —
- (a) fall within the same paragraph of section 1(1), but
- (b) are not all of the same alcoholic strength,
- except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.
- (3) In relation to the blending of particular alcoholic liquors —
- (a) if the liquor which is the product of the blending is beer, permitted premises are premises which are registered under section 36A and premises in respect of which a person is registered under section 42;
- (b) if the liquor which is the product of the blending is wine or made-wine, permitted premises are premises in respect of which a person is licenced under section 52(1);
- (c) if the liquor which is the product of the blending is cider, permitted premises are premises in respect of which a person is licensed under section 58.
- (4) Subsections (1) and (2) do not apply unless the blending is done with a view to offering for sale the liquor which is the product of the blending.
- (5) Subsections (1) and (2) do not apply where the liquor which is the product of the blending is intended for consumption on the premises on which the blending takes place.
- (6) The Treasury may direct that subsections (1) and (2) shall not apply to the blending of alcoholic liquors in such circumstances as are specified in the direction.
- (7) Where a person contravenes subsection (1) or (2), the following shall be liable to forfeiture —
- (a) the liquor which is the product of the blending;
- (b) all such vessels, utensils and materials for the blending of alcoholic liquors as are found in his possession.
- (8) In this section any reference to blending liquors includes a reference to otherwise mixing them.<sup>186</sup>

## **60B Alcoholic ingredients relief**

- (1) Subject to the following provisions of this section, where any person proves to the satisfaction of the Treasury that any dutiable alcoholic liquor on which duty has been paid has been —

- (a) used as an ingredient in the production or manufacture of a product falling within subsection (2), or
  - (b) converted into vinegar,
- he shall be entitled to obtain from the Treasury the repayment of the duty paid thereon.
- (2) The products falling within this subsection are —
- (a) any beverage of an alcoholic strength not exceeding 1.2 per cent.,
  - (b) chocolates for human consumption which contain alcohol such that 100 kilograms of the chocolates would not contain more than 8.5 litres of alcohol, or
  - (c) any other food for human consumption which contains alcohol such that 100 kilograms of the food would not contain more than 5 litres of alcohol.
- (3) A repayment of duty shall not be made under this section in respect of any liquor except to a person who —
- (a) is the person who used the liquor as an ingredient in a product falling within subsection (2) or, as the case may be, who converted it into vinegar;
  - (b) carries on a business as a wholesale supplier of products of the applicable description falling within that subsection or, as the case may be, of vinegar;
  - (c) produced or manufactured the product or vinegar for the purposes of that business;
  - (d) makes a claim for the repayment in accordance with the following provisions of this section; and
  - (e) satisfies the Treasury as to the matters mentioned in paragraphs (a) to (c) and that the repayment claimed does not relate to any duty which has been repaid or drawn back prior to the making of the claim.
- (4) A claim for repayment under this section shall take such form and be made in such manner, and shall contain such particulars, as the Treasury may direct, either generally or in a particular case.
- (5) Except so far as the Treasury otherwise allows; a person shall not make a claim for a repayment under this section unless —
- (a) the claim relates to duty paid on liquor used as an ingredient or, as the case may be, converted into vinegar in the course of a period of three months ending not more than one month before the making of the claim; and
  - (b) the amount of the repayment which is claimed is not less than £250.

- (6) The Treasury may by order increase the amount for the time being specified in subsection (5)(b).
- (7) There may be remitted by the Treasury any duty charged either —
  - (a) on any dutiable alcoholic liquor imported into the Island at a time when it is contained as an ingredient in any chocolates or food falling within subsection (2)(b) or (c); or
  - (b) on any dutiable alcoholic liquor used as an ingredient in the manufacture or production in an excise warehouse of any such chocolates or food.
- (8) In this section references to chocolates or food do not include references to any beverages.<sup>187</sup>

**61 [Repealed]**<sup>188</sup>

**62 [Repealed]**<sup>189</sup>

**63 [Repealed]**<sup>190</sup>

Denatured alcohol

**64 Licence or authority to manufacture and deal wholesale in denatured alcohol**

[P1979/4/75]

- (1) The Treasury may authorise any distiller, rectifier or compounder to denature dutiable alcoholic liquor, and any person so authorised is referred to in this Act as an “authorised denaturer”.<sup>191</sup>
- (2) No person other than an authorised denaturer shall denature dutiable alcoholic liquor or deal wholesale in denatured alcohol unless he holds an excise licence granted by the Treasury as a denaturer under this section.<sup>192</sup>
- (3) A licence granted under this section shall expire on the 12th May next after it is granted.
- (4) On any licence granted under this section there shall be charged an excise licence duty of £10.
- (5) Where any person, not being an authorised denaturer, denatures dutiable alcoholic liquor otherwise than under and in accordance with a licence under this section his doing so shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>193</sup>
- (6) The Treasury may at any time revoke or suspend any authorisation or licence granted under this section.

- (7) For the purposes of this section, dealing wholesale means the sale at any one time to any one person of a quantity of denatured alcohol of not less than 20 litres or such smaller quantity as the Treasury may by regulations specify.<sup>194</sup>

#### **64A Retail containers of certain alcoholic liquors to be stamped**

Schedule 2A to this Act (duty stamps) has effect.<sup>195</sup>

#### **65 Power to make regulations relating to denatured alcohol**

[P1979/4/77]

- (1) The Treasury may with a view to the protection of the revenue make regulations —
- (a) regulating the denaturing of dutiable alcoholic liquor and the supply, storage, removal, sale, delivery, receipt, use and exportation or shipment as stores of denatured alcohol;<sup>196</sup>
  - (b) prescribing the dutiable alcoholic liquor which may be used, and the substances which may be mixed therewith, for denaturing;<sup>197</sup>
  - (c) permitting dutiable alcoholic liquor to be denatured in warehouse;<sup>198</sup>
  - (d) permitting the dealing wholesale (within the meaning of section 64) without a licence such denatured alcohol as may be specified in the regulations;<sup>199</sup>
  - (e) regulating the importation, receipt, removal, storage and use of dutiable alcoholic liquor for denaturing;<sup>200</sup>
  - (f) regulating the storage and removal of substances to be used in denaturing dutiable alcoholic liquor;<sup>201</sup>
  - (g) prescribing the manner in which account is to be kept of stocks of denatured alcohol in the possession of authorised or licenced denaturers and of retailers of denatured alcohol;<sup>202</sup>
  - (h) for securing any duty chargeable in respect of denatured alcohol of any class.<sup>203</sup>
- (2) Without prejudice to the generality of subsection (1), regulations under this section may —
- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and
  - (aa) frame any provision of the regulations with respect to the supply, receipt or use of denatured alcohol by reference to matters to be contained from time to time in a notice published in accordance with the regulations by the Treasury and having effect until withdrawn in accordance with the regulations; and<sup>204</sup>

- (b) impose or provide for the imposition by regulations or requirements on authorised or licensed denaturers and on retailers of denatured alcohol to keep and preserve records relating to their businesses as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.<sup>205</sup>
- (3) Where any documents removed under the powers conferred by subsection (2)(b) are lost or damaged the Treasury shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.
- (4) If any person contravenes any regulation under this section, or with any condition, restriction or requirement imposed under such a regulation, his contravention shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>206</sup>
- (5) If, save as permitted by any regulation under this section, any person deals wholesale (within the meaning of section 64) in denatured alcohol otherwise than under and in accordance with a licence under section 64 his doing so shall attract a penalty under section 9 of the *Finance Act 1994* (civil penalties).<sup>207</sup>
- (6) Any dutiable alcoholic liquor or denatured alcohol in respect of which there is such a contravention as is mentioned in subsection (4) or any such dealing as is mentioned in subsection (5) shall be liable to forfeiture.<sup>208</sup>

## 66 Defaults in respect of denatured alcohol

- (1) This subsection applies if, at any time when an account is taken and a balance struck of the quantity of any kind of denatured alcohol in the possession of an authorised or licensed denaturer, there is a difference between —
  - (a) the quantity (“the actual amount”) of the dutiable alcoholic liquor of any description in the denatured alcohol in his possession; and
  - (b) the quantity (“the proper amount”) of dutiable alcoholic liquor of that description which, according to any such accounts as are required to be kept by virtue of any regulations under section 65, ought to be in the denatured alcohol in his possession.
- (2) Subsection (1) shall not apply if the difference constitutes —
  - (a) an excess of the actual amount over the proper amount of not more than 1 per cent. of the aggregate of —
    - (i) the quantity of dutiable alcoholic liquor of the description in question in the balance of dutiable alcoholic liquor struck when an account was last taken; and

- (ii) the quantity of dutiable alcoholic liquor of that description which has since been lawfully added to the denaturer's stock; or
  - (b) a deficiency such that the actual amount is less than the proper amount by not more than 2 per cent. of that aggregate.
- (3) If, where subsection (1) applies, the actual amount exceeds the proper amount, the relevant amount of any dutiable alcoholic liquor of the description in question which is in the possession of the denaturer shall be liable to forfeiture; and for this purpose the relevant amount is the amount corresponding to the amount of the excess or such part of that amount as the Treasury considers appropriate.
- (4) If, where subsection (1) applies, the actual amount is less than the proper amount, the denaturer shall, on demand by the Treasury, pay on the amount of the deficiency, or on such part of it as the Treasury may specify in the demand, the duty payable on dutiable alcoholic liquor of the description comprised in the deficiency.
- (5) If any person —
  - (a) supplies to another, in contravention of any regulations under section 65, any denatured alcohol containing dutiable alcoholic liquor of any description, or
  - (b) uses any such denatured alcohol in contravention of any such regulations,that person shall, on demand by the Treasury, pay on the amount of dutiable alcoholic liquor of that description comprised, at the time of its supply or use, in the denatured alcohol that is so supplied or used, or on such part of it as the Treasury may specify, the duty payable on dutiable alcoholic liquor of that description.
- (6) Any supply of denatured alcohol to a person who —
  - (a) by virtue of any regulations under section 65 is prohibited from receiving it unless authorised to do so by or under the regulations, and
  - (b) is not so authorised in the case of the denatured alcohol supplied to him,shall be taken for the purposes of subsection (5) to be a supply in contravention of those regulations.
- (7) A demand made for the purposes of subsection (4) or (5) shall be combined, as if there had been a default such as is mentioned in that section, with an assessment and notification under section 12 of the *Finance Act 1994* (an Act of Parliament applied by SD369/94) (assessments to excise duty) of the amount of duty due in consequence of the making of the demand.<sup>209</sup>



**67 Inspection of premises, etc.**

[P1979/4/79]

Without prejudice to any other power conferred by the Customs and Excise Acts 1986, an officer may in the daytime enter and inspect the premises of any person authorised by regulations made under section 65 to receive denatured alcohol, and may inspect and examine any denatured alcohol thereon and take samples of any denatured alcohol or of any goods containing denatured alcohol, paying a reasonable price for each sample.<sup>210</sup>

**68 Prohibition of use of denatured alcohol, etc. as a beverage or medicine**

[P1979/4/80]

(1) If any person —

- (a) prepares or attempts to prepare any liquor to which this section applies for use as a beverage or as a mixture with a beverage; or
- (b) sells any such liquor, whether so prepared or not, as a beverage or mixed with a beverage; or
- (c) uses any such liquor or any derivative thereof in the preparation of any article capable of being used wholly or partially as a beverage or internally as a medicine; or
- (d) sells or has in his possession any such article in the preparation of which any such liquor or any derivative thereof has been used; or
- (e) except as permitted by the Treasury are in accordance with any conditions imposed by it, purifies or attempts to purify any such liquor or, after any such liquor has once been used, recovers or attempts to recover the spirit or alcohol contained therein by distillation or condensation or in any other manner,

he shall be guilty of an offence and shall be liable on summary conviction to a fine of £1,000 and the liquor in respect of which the offence was committed shall be liable to forfeiture.<sup>211</sup>

(2) Nothing in this section shall prohibit the use of any liquor to which this section applies or any derivative thereof —

- (a) in the preparation for use as a medicine of sulphuric ether, chloroform, or any other article which the Treasury may by order specify; or
- (b) in the making for external use only of any article sold or supplied in accordance with regulations made by the Treasury under section 65; or
- (c) in any art or manufacture,

or the sale or possession of any article permitted to be prepared or made by virtue of paragraph (a) or (b) where the article is sold or possessed for use as mentioned in that paragraph.

- (3) The liquors to which this section applies are denatured alcohol, methyl alcohol, and any mixture containing denatured alcohol of methyl alcohol.<sup>212</sup>

### 68A Denatured alcohol

- (1) Denatured alcohol of such a description as may be specified in regulations made by the Treasury shall not, if it would otherwise be so charged, be charged with any duty of excise under section 4 of this Act on its importation into the Island from a member State.
- (2) The following references, namely —
- (a) the references in sections 64, 65, 67 and 68 to methylated spirits;
  - (b) the reference in section 65(1)(e) to spirits for methylation; and
  - (c) the references in section 66 to methylated spirits or spirits (other than in the expression “duty payable on spirits”),

shall each be construed as including a reference to denatured alcohol of any description from time to time specified in regulations made for the purposes of subsection (1).

- (3) In this section “denatured alcohol” means any substance appearing to the Treasury to fall within Article 27.1(a) of the Directive of the Council of the European Communities dated 19th October 1992 No. 92/83/EEC (directive on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages).
- (4) Any description of denatured alcohol specified in regulations under this section may be framed by reference to such circumstances or other factors, or to the approval or opinion of such persons (including the authorities in any member State), as may be so specified.
- (5) Regulations under this section may contain such transitional, supplemental and incidental provision as the Treasury thinks fit.<sup>213</sup>

### 68B Denatured alcohol exemption from duty

- (1) The liquors on which duty is charged under this Act shall not include any denatured alcohol; and any duty so charged on liquor which has become denatured alcohol before the requirement to pay the duty takes effect shall be remitted.
- (2) In this section —
- “denatured alcohol” means any dutiable alcoholic liquor which has been subjected to the process of being mixed in the prescribed manner with a prescribed substance; and

“prescribed” means prescribed by the Treasury in regulations.

- (3) The power of the Treasury to make regulations defining denatured alcohol for the purposes of this section shall include —
- (a) power, in prescribing any substance or any manner of mixing a substance with a liquor, to do so by reference to such circumstances or other factors, or to the approval or opinion of such persons (including the authorities of a member State), as it may consider appropriate;
  - (b) power to make different provision for different cases; and
  - (c) power to make such supplemental, incidental, consequential and transitional provision as the Treasury thinks fit.
- (4) Sections 13A to 16 of the *Finance Act 1994* (an Act of Parliament) (review and appeals) shall have effect in relation to any decision which —
- (a) is made under or for the purposes of any regulations under this section, and
  - (b) is a decision given to any person as to whether a manner of mixing any substance with any liquor is to be, or to continue to be, approved in his case, or as to the conditions subject to which it is so approved,

as if that decision were a decision falling within section 13A(2)(j) of that Act.<sup>214</sup>

#### *Still licences*

### **69 Licence for keeping still otherwise than as a distiller, etc.**

[P1979/4/81]

- (1) Subject to the provisions of this section and of regulations made under section 70, no person shall keep or use a still otherwise than as a distiller, rectifier, or compounder unless he has the permission in writing of the Treasury.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of £1,000 and the still shall be liable to forfeiture.<sup>215</sup>
- (3) If any person to whom permission has been given under this section is convicted of any offence whatever in relation to methylated spirits, the Treasury may suspend or revoke such permission.

**70 [Repealed]**<sup>216</sup>**71 Power of entry on premises of person keeping or using still**

[P1979/4/83]

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1986, an officer may, subject to subsection (2) at any time enter upon the premises of any person licensed or permitted to keep a still under section 69 and examine any still or retort kept or used by that person.
- (2) No officer shall exercise the powers conferred on him by subsection (1) by night unless he is accompanied by a constable.

**PART VIA**<sup>217</sup>**WHOLESALE OF CONTROLLED LIQUOR****71A Definitions**

- (1) This section defines certain expressions used in this Part.
- (2) A sale is of “**controlled liquor**” if —
  - (a) it is a sale of dutiable alcoholic liquor on which duty is charged under this Act at a rate greater than nil; and
  - (b) the excise duty point for the liquor falls at or before the time of the sale.
- (3) Controlled liquor is sold “**wholesale**” if —
  - (a) the sale is of any quantity of the liquor;
  - (b) the seller is carrying on a trade or business and the sale is made in the course of that trade or business;
  - (c) the sale is to a buyer carrying on a trade or business, for sale or supply in the course of that trade or business; and
  - (d) the sale is not an incidental sale, a group sale or an excluded sale, and a reference to buying controlled liquor wholesale is to be read accordingly.
- (4) A sale is an “**incidental sale**” if —
  - (a) the seller makes authorised retail sales of alcoholic liquor of any description; and
  - (b) the sale is incidental to those sales.
- (5) A sale is an “**authorised retail sale**” if it is made by retail under and in accordance with a licence or other authorisation under an enactment regulating the sale and supply of alcohol.

- (6) A sale is a “**group sale**” if the seller and the buyer are both bodies corporate which are members of the same group (see section 71J).
- (7) A sale is an “**excluded sale**” if it is of a description prescribed by or under regulations made by the Treasury.
- (8) “**Controlled activity**” means —
  - (a) selling controlled liquor wholesale;
  - (b) offering or exposing controlled liquor for sale in circumstances in which the sale (if made) would be a wholesale sale; or
  - (c) arranging in the course of a trade or business for controlled liquor to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale.
- (9) “**Island person**” means a person who is established in the Island for the purposes of value added tax (see paragraph 1(10) of Schedule 2 to the *Value Added Tax Act 1996*).
- (10) “**UK person**” means a person who is UK-established for the purposes of value added tax (see paragraph 1(10) of Schedule 1 to the *Value Added Tax Act 1994* (an Act of Parliament)).<sup>218</sup>

### 71B Further provisions relating to definitions

- (1) The Treasury may by regulations make provision as to the cases in which sales are, or are not, to be treated for the purposes of this Part as —
  - (a) wholesale sales;
  - (b) sales of controlled liquor;
  - (c) incidental sales;
  - (d) authorised retail sales; or
  - (e) group sales.
- (2) The Treasury may by regulations make provision as to the cases in which a person is, or is not, to be treated for the purposes of this Part as carrying on a controlled activity by virtue of section 71A(8)(b) or (c) (offering and exposing for sale and arranging for sale etc).<sup>219</sup>

### 71C Approval to carry on controlled activity

- (1) An Island person may not carry on a controlled activity otherwise than in accordance with an approval given by the Treasury under this section.<sup>220</sup>
- (2) The Treasury may approve a person under this section to carry on a controlled activity only if it is satisfied that the person is a fit and proper person to carry on the activity.
- (3) The Treasury may approve a person under this section to carry on a controlled activity for such periods and subject to such conditions or

restrictions as it thinks fit or as it may by or under regulations made by it prescribe.

- (4) The conditions or restrictions may include conditions or restrictions requiring the controlled activity to be carried on only at or from premises specified or approved by the Treasury.
- (5) The Treasury may at any time for reasonable cause revoke or vary the terms of an approval under this section.
- (6) In this Part, “**approved person**” means a person approved under this section to carry on a controlled activity.<sup>221</sup>

#### **71D The register of approved persons**

- (1) The Treasury must maintain a register of approved persons.
- (2) The register is to contain such information relating to approved persons as the Treasury considers appropriate.
- (3) The Treasury may make publicly available such information contained in the register as it considers necessary to enable those who deal with a person who carries on a controlled activity to determine whether the person in question is an approved person in relation to that activity.
- (4) The information may be made available by such means (including on the internet) as the Treasury considers appropriate.<sup>222</sup>

#### **71E Regulations relating to approval, registration and controlled activities**

- (1) The Treasury may by regulations make provision —
  - (a) regulating the approval and registration of persons under this Part;
  - (b) regulating the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject;
  - (c) about the register maintained under section 71D;
  - (d) regulating the carrying on of controlled activities; and
  - (e) imposing obligations on approved persons.
- (2) The regulations may, in particular, make provision —
  - (a) requiring applications, and other communications with the Treasury, to be made electronically;
  - (b) as to the procedure for the approval and registration of bodies corporate who are members of the same group and for members of such a group to be jointly and severally liable for any penalties imposed under —
    - (i) the regulations; or

- (ii) Schedule 2B;
- (c) requiring approved persons to keep and make available for inspection such records relating to controlled activities as may be prescribed by or under the regulations;
- (d) imposing a penalty of an amount prescribed by the regulations (which must not exceed £1,000) for a contravention of —
  - (i) the regulations; or
  - (ii) any condition or restriction imposed under this Part;
- (e) for the assessment and recovery of such a penalty; and
- (f) for dutiable alcoholic liquor (whether or not charged with any duty and whether or not that duty has been paid) to be subject to forfeiture for a contravention of —
  - (i) this Part or the regulations; or
  - (ii) any condition or restriction imposed under this Part.<sup>223</sup>

#### **71F Restriction on buying controlled liquor wholesale<sup>224</sup>**

- (1) A person may not buy controlled liquor wholesale from an Island person or a UK person unless that person is an approved person in relation to the sale.
- (2) In subsection (1), “approved person” includes a person approved by the Commissioners of Revenue and Customs under section 88C of the Alcoholic Liquor Duties Act 1979 (an Act of Parliament).<sup>225</sup>

#### **71G Offences**

- (1) A person who contravenes section 71C(1) by selling controlled liquor wholesale is guilty of an offence if the person knows or has reasonable grounds to suspect that —
  - (a) the buyer is carrying on a trade or business; and
  - (b) the liquor is for sale or supply in the course of that trade or business.
- (2) A person who contravenes section 71C(1) by offering or exposing controlled liquor for sale in circumstances in which the sale (if made) would be a wholesale sale is guilty of an offence if the person intends to make a wholesale sale of the liquor.
- (3) A person who contravenes section 71C(1) by arranging in the course of a trade or business for controlled liquor to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale, is guilty of an offence if the person intends to arrange for the liquor to be sold wholesale.

- (4) A person who contravenes section 71F is guilty of an offence if the person knows or has reasonable grounds to suspect that the Island person or the UK person, as the case may be, from whom the controlled liquor is bought is not an approved person in relation to the sale.
- (5) A person guilty of an offence under this section is liable on summary conviction to —
  - (a) custody for a term not exceeding 6 months;
  - (b) a fine; or
  - (c) both.
- (6) A person guilty of an offence under this section is liable on conviction on information to —
  - (a) custody for a period not exceeding 7 years;
  - (b) a fine; or
  - (c) both.<sup>226</sup>

### 71H Penalties

Schedule 2B contains provision about penalties for contraventions of this Part.<sup>227</sup>

### 71I Regulations

Regulations under this Part —

- (a) may make provision which applies generally or only for specified cases or purposes;
- (b) may make different provision for different cases or purposes;
- (c) may include incidental, consequential, transitional or transitory provision; and
- (d) may confer a discretion on the Treasury.<sup>228</sup>

### 71J Groups

- (1) Two or more bodies corporate are members of a group for the purposes of this Part if each is established or has a fixed establishment in the Island or the United Kingdom and —
  - (a) one of them controls each of the others;
  - (b) one person (whether a body corporate or an individual) controls all of them; or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) For the purposes of this section, a body corporate is to be taken to control another body corporate if —



- (a) it is empowered by or under an enactment to control that body's activities; or
  - (b) it is that body's holding company within the meaning of section 1 of the *Companies Act 1974*.
- (3) For the purposes of this section –
- (a) an individual or individuals are to be taken to control a body corporate if the individual or individuals (were the individual or individuals a company) would be that body's holding company within the meaning of section 1 of the *Companies Act 1974*; and
  - (b) a body corporate is established or has a fixed establishment in the Island or the United Kingdom if it is so established or has such an establishment for the purposes of value added tax.<sup>229</sup>

## 71K Index

This Table lists the places where some of the expressions used in this Part are defined or otherwise explained.<sup>230</sup>

approved person	section 71C(6)
authorised retail sale	section 71A(5)
controlled activity	section 71A(8)
enactment	section 71A(10)
group (in relation to bodies corporate)	section 71J(1)
group sale	section 71A(6)
incidental sale	section 71A(4)
Island person	section 71A(9)
sale of controlled liquor	section 71A(2)
UK person	section 71A(10)
wholesale	section 71A(3).

## PART VII – MISCELLANEOUS

### *General*

#### 72 Public documents

- (1) Without prejudice to subsection (2), the Treasury may by order amend the rate of any duty chargeable under this Act.
- (2) Section 180 of the *Customs and Excise Management Act 1986* (Tynwald procedure, application of legislation, power to amend and date of commencement) shall have effect in relation to this Act as it has in relation to that Act and for this purpose, the references in that section to “section 190” and “the *Customs and Excise Management Act 1979*” shall be

construed as references to “section 76” and “the *Alcoholic Liquor Duties Act 1979*” respectively.

- (3) Any order or regulations made under sections 58 or 60 of the Act before 1st January 1997 —
- (a) shall have effect (but only if and for so long as the order or regulations would be in force apart from this subsection) as if the amendments made to the Act by the Alcoholic Liquor Duties Act 1986 (Amendment) (No. 2) Order 1996 had been made before the making of the order or regulations, and
  - (b) shall be deemed at all times on or after the date so to have had effect.<sup>231</sup>

### 73 Powers in relation to directions and licences

[P1979/4/91]

- (1) Directions given under any provision of this Act may make different provision for different circumstances and may be varied or revoked by subsequent direction thereunder.
- (2) The holder of any licence under this Act may surrender the licence to the Treasury at any time.
- (3) Without prejudice to any other provision in this Act, the Treasury may in respect of any licence granted under this Act at any time —
  - (a) impose such conditions as it sees fit;
  - (b) revoke the licence.

### 74 Interpretation

[P1979/4/4]

- (1) In this Act —

“**alcohol**” has the meaning given by section 2;

“**authorised denaturer**” means a person authorised under section 64(1) to denature dutiable alcoholic liquor;<sup>232</sup>

“**beer**” has the meaning given by section 1;

“**black beer**” [Repealed];<sup>233</sup>

“**brewer**” and “**brewer for sale**” [Repealed]<sup>234</sup>

“**British compounded spirits**” means spirits which have, in the Island or the United Kingdom, had any flavour communicated thereto or ingredient or material mixed therewith, not being denatured alcohol;<sup>235</sup>

“**case**”, in relation to dutiable alcoholic liquor, means 1 dozen units each consisting of a container holding not less than 65 nor more than 80

centilitres, or the equivalent of that number of such units made up wholly or partly of containers of a larger or smaller size;

“**cider**” has the meaning given by section 1;

“**compounder**” means a person holding a licence as a compounder under section 17;

“**denatured alcohol**” means denatured alcohol within the meaning of section 68B, and references to denaturing a liquor are references to subjecting it to any process by which it becomes denatured alcohol;<sup>236</sup>

“**distiller**”, means a person holding a distiller’s licence under section 11;

“**distiller’s licence**” has the meaning given by section 11(1);

“**distiller’s warehouse**” means a place of security provided by a distiller and approved by the Treasury under section 14(1);

“**distillery**” means premises where spirits are manufactured, whether by distillation of a fermented liquor or by any other process;

“**dutiable alcoholic liquor**” has the meaning given by section 1(1);

“**duty**” has the meaning given by section 1(1) and “**duty-paid**”, “**duty-free**” and references to drawback shall be construed accordingly;

“**the Finance Act 1994**” means the *Finance Act 1994*, an Act of Parliament, as it has effect in the Island;<sup>237</sup>

“**general beer duty**” has the meaning given in section 31(1ZAA);<sup>238</sup>

“**gravity**” and “**original gravity**” have the meanings given by section 3;

“**high strength beer duty**” has the meaning given by section 32(3);<sup>239</sup>

“**licensed denaturer**” means a person holding a licence under section 64(2);<sup>240</sup>

“**limited licence to brew beer**” [Repealed]<sup>241</sup>

“**made-wine**” has the meaning given by section 1;

“**the Management Act**” means the *Customs and Excise Management Act 1986*;

“**methylated spirits**” [Repealed]<sup>242</sup>

“**package**”, in relation to beer, means to put beer into tanks, casks, kegs, cans, bottles or any other receptacles of a kind in which beer is distributed to wholesalers or retailers;<sup>243</sup>

“**packager**”, in relation to beer, means a person carrying on the business of packaging beer;<sup>244</sup>

“**producer of made-wine**” includes a person who renders made-wine sparkling, and “**produce**”, in relation to made-wine, shall be construed accordingly;

“**producer of wine**” includes a person who renders wine sparkling, and “**produce**”, in relation to wine, shall be construed accordingly;

- “**rectifier**” means a person holding a licence as a rectifier under section 17;
- “**registered brewer**” has the meaning given by section 42(1);<sup>245</sup>
- “**retailer**” means, in relation to dutiable alcoholic liquor, a person who sells such liquor by retail;
- “**spirits**” has the meaning given by section 1;
- “**spirits of wine**” means plain spirits of a strength of not less than 80 per cent. manufactured in the Island;
- “**strength**” in relation to any liquor, has the meaning given by section 2;
- “**wholesale**” (except in Part VIA), in relation to dealing in dutiable alcoholic liquor, 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 9 litres or 1 case; or
  - (b) in the case of beer or cider, 20 litres or 2 cases;<sup>246</sup>
- “**wholesaler**” means a person who deals wholesale in dutiable alcoholic liquor;
- “**wine**” has the meaning given by section 1.
- (2) This Act and the other Acts included in the Customs and Excise Acts 1986 shall be construed as one Act but where a provision of this Act refers to this Act that reference is not to be construed as including a reference to any of the others.
  - (3) Any expression used in this Act or any instrument made under this Act to which a meaning is given by any other Act included in the Customs and Excise Acts 1986 has, except where the context otherwise requires, the same meaning in this Act or in any such instrument as in that Act; and for ease of reference the Table below indicates the expression used in this Act to which a meaning is given by any other such Act —

*Management Act*

“container”

“the Customs and Excise Acts 1986”

“excise duty point”<sup>247</sup>

“excise warehouse”

“goods”

“hovercraft”

“importer”

“Manx Waters”

“night”

“occupier”

“officer” and “proper” in relation to an officer

“ship” and “British ship”

“shipped”

“shipment”

“stores”

“tons register”

“warehouse”

“warehousing regulations”.<sup>248</sup>

- (4) For the purposes of this Act (except in Part VIA), selling by retail, in relation to dutiable alcoholic liquor, means the sale at any one time to any one person of quantities not exceeding the following, that is to say —
- (a) in the case of spirits, wine or made-wine, 9 litres or 1 case;
  - (b) in the case of beer or cider, 21 litres or 2 cases.<sup>249</sup>

## 75 Sparkling wines

[P1979/4/Sch 1]

- (1) Subsections (2) to (7) apply for the purposes of this Act.<sup>250</sup>
- (2) Wine or made-wine which is for the time being in a closed container is sparkling if, due to the presence of carbon dioxide or any other gas, the pressure in the container, measured at a temperature of 20°C, is not less than 3 bars in excess of atmospheric pressure.<sup>251</sup>
- (3) Wine or made-wine which is for the time being in a closed container is sparkling regardless of the pressure in the container if the container has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.<sup>252</sup>
- (4) Wine or made-wine which is not for the time being in a closed container is sparkling if it has characteristics similar to those of wine or made-wine which has been removed from a closed container and which, before removal, fell within subsection (2).  
<sup>253</sup>
- (5) Wine or made-wine shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either falls within subsection (2) or takes on such characteristics as are referred to in subsection (4).<sup>254</sup>
- (6) Wine or made-wine which has not previously been rendered sparkling by virtue of subsection (5) shall be regarded as having been rendered sparkling if it is transferred into a closed container which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.<sup>255</sup>

- (7) Wine or made-wine which is in a closed container and has not previously been rendered sparkling by virtue of subsections (5) or (6) shall be regarded as having been rendered sparkling if the stopper of its container is exchanged for a stopper of a kind mentioned in subsection (6).<sup>256</sup>

## **76 Consequential amendments**

[P1979/4/92]

- (1) The enactments specified in Schedule 2 shall be amended in accordance with the provisions of that Schedule.
- (2) [Repealed]<sup>257</sup>

## **77 Citation and commencement**

- (1) This Act may be cited as the Alcoholic Liquor Duties Act 1986 and is included in the Acts which may be cited as the Customs and Excise Acts 1986.
- (2) This Act shall come into operation on such day as the Treasury may by order appoint, and different days may be appointed for different purposes and different provisions.<sup>258</sup>

## Schedule 1

## TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

Sections 50 and 51<sup>259</sup>**PART 1 – WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.**

Description of wine or made-wine	Rates of duty per hectolitre
	£
Wine or made-wine of a strength not exceeding 4 per cent.	84.21
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	115.80
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	273.31
Sparkling wine or made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent.	264.61
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent. or of a strength exceeding 8.5 per cent. but not exceeding 15 per cent.	350.07
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	364.37

**PART 2 – WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.**<sup>260</sup>

Description of wine or made-wine	Rates of duty per litre of alcohol in the wine or made-wine
	£
Wine or made-wine of a strength exceeding 22 per cent.	27.66

## Schedule 2

## AMENDMENT OF ENACTMENTS

Section 76(1)

[Sch 2 amended by Licensing Act 1995 Sch 4, and amends the following Act —  
Brewers' Act 1874 q.v.]

## Schedule 2A

## DUTY STAMPS

Section 64A<sup>261</sup>**1 Retail containers to be stamped**

- (1) Retail containers of alcoholic liquors to which this Schedule applies shall be stamped —
  - (a) in such cases and circumstances, and with a duty stamp of such a type, as may be prescribed; but
  - (b) subject to such exceptions as may be prescribed.
- (2) In this Schedule, “**retail container**”, in relation to an alcoholic liquor, means a container —
  - (a) of a capacity of 35 centilitres or more, and
  - (b) in which, or from which, the liquor is intended to be sold by retail.
- (3) This Schedule applies to the following alcoholic liquors —
  - (a) spirits of a strength of 30 per cent. or more;<sup>262</sup>
  - (b) wine or made-wine of a strength of 30 per cent. or more.<sup>263</sup>
- (4) For the purposes of this Schedule a retail container is “stamped” if —
  - (a) it carries a duty stamp of a type mentioned in subparagraph (5)(a) which has been affixed to the container in a way that complies with the requirements of regulations under this Schedule, or
  - (b) it carries a label which has been so affixed to the container and the label incorporates a duty stamp of a type mentioned in subparagraph (5)(b).
- (5) In this Schedule, “**duty stamp**” means any of the following —
  - (a) a document (a “type A stamp”) issued by or on behalf of the Treasury or the Commissioners which —
    - (i) is designed to be affixed to a retail container of alcoholic liquor, and
    - (ii) indicates that the appropriate duty, or an amount representing some or all of the appropriate duty, has been (or is to be) paid;
  - (b) a part of a label for a retail container or alcoholic liquor (a “type B stamp”) which —
    - (i) is incorporated in the label under the authority of the Treasury or the Commissioners, and



- (ii) indicates that the appropriate duty, or an amount representing some or all of the appropriate duty, has been (or is to be) paid.

(6) In sub-paragraph (5) —

“the appropriate duty” means the duty chargeable on the quantity and description of alcoholic liquor contained, or to be contained, in the retail container to which the stamp or the label incorporating the stamp is, or is to be, affixed; and

“Commissioners” means the Commissioners of Customs and Excise in the United Kingdom.

## **2 Power to alter range of liquors, and capacity of retail container, to which this Schedule applies**

- (1) The Treasury may by order amend sub-paragraph (a) of paragraph 1(2) for the purpose of varying the capacity from time to time specified in that paragraph.
- (2) The Treasury may by order amend paragraph 1(3) for the purpose of causing this Schedule —
  - (a) to apply to any description of alcoholic liquor to which it does not apply, or
  - (b) to cease to apply to any description of alcoholic liquor to which it does apply.

## **3 Acquisition of and payment for duty stamps**

- (1) The Treasury may by regulations make provision as to the terms and conditions on which a person may obtain —
  - (a) a type A stamp,
  - (b) authority to incorporate in a label a type B stamp,
  - (c) authority to obtain a label incorporating a type B stamp,
  - (d) authority to affix such a label to a retail container of alcoholic liquor.
- (2) Regulations under sub-paragraph (1) may in particular make provision for or in connection with —
  - (a) requiring a person in prescribed cases or circumstances to pay, or agree to pay, the prescribed amount to the Treasury or to a person authorised by the Treasury for this purpose;
  - (b) requiring a person in prescribed cases or circumstances to provide to the Treasury such security as it may require in respect of payment of the appropriate duty.

- (3) An amount prescribed for the purposes of sub-paragraph (2)(a) must not exceed the aggregate of —
  - (a) an amount representing the appropriate duty, and
  - (b) in the case of a type A stamp, the cost of issuing the stamp.
- (4) The whole of an amount payable for a duty stamp shall be treated for the purposes of the Customs and Excise Acts 1986 as an amount due by way of excise duty.
- (5) In this paragraph, “the appropriate duty” means the duty chargeable on the quantity and description of alcoholic liquor contained, or to be contained, in the retail container to which the stamp, or the label incorporating the stamp, is to be affixed.

#### 4 Regulations

- (1) The Treasury may by regulations make provision as to such matters relating to duty stamps as appear to it to be necessary or expedient.
- (2) Regulations under this Schedule may in particular make provision about —
  - (a) the times at which a retail container must bear a duty stamp including the production of a label incorporating a type B stamp;
  - (b) the type of duty stamp with which a retail container is to be stamped in any particular case or circumstances;
  - (c) the design and appearance of a duty stamp (including the production of a label incorporating a type B stamp);
  - (d) the information that is to appear on a duty stamp;
  - (e) the cost of issuing a type A stamp for the purposes of paragraph 3(3)(b);
  - (f) the procedure for obtaining —
    - (i) a type A stamp,
    - (ii) authority to incorporate in a label a type B stamp,
    - (iii) authority to obtain a label incorporating a type B stamp,
    - (iv) authority to affix such a label to a retail container of alcoholic liquor, (including provision for setting periods of notice);
  - (g) where on the container a type A stamp, or a label incorporating a type B stamp, is to be affixed;
  - (h) repayment of, or credit in prescribed circumstances and subject to such conditions as may be prescribed, all or part of a payment made under or by virtue of this Schedule to the Treasury or to a person authorised by the Treasury;

- (i) liability to forfeiture in prescribed circumstances of some or all of a payment made, or security provided, under or by virtue of this Schedule to the Treasury or to a person authorised by the Treasury.
- (3) Regulations under this Schedule may also, in particular, make provision for or in connection with a type A stamp, or a label incorporating a type B stamp, from being used by a person other than —
  - (a) in the case of a type A stamp, the person to or for whom the stamp was issued or a person authorised by that person to affix the stamp to a retail container of alcoholic liquor,
  - (b) in the case of a type B stamp, the person to or for whom authority to obtain the label incorporating the stamp, or to affix that label to a retail container of alcoholic liquor, was given by the Treasury.
- (4) Regulations under this Schedule may also, in particular, make provision —
  - (a) for or in connection with requiring a person who is not established, and does not have any fixed establishment, in the Island, in prescribed circumstances, to appoint another person (a “duty stamps representative”) to act on his behalf in relation to duty stamps, and
  - (b) as to the rights, obligations or liabilities of duty stamp representatives.
- (5) The Treasury may, with a view to the protection of the revenue, make regulations for securing and collecting duty payable in accordance with this Schedule.
- (6) Regulations under this Schedule may make different provision for different cases.

## **5 Offences of possession, sale etc. of unstamped containers**

- (1) Except in such cases as may be prescribed, a person commits an offence if he —
  - (a) is in possession of, transports or displays, or
  - (b) sells, offers for sale or otherwise deals in,  
unstamped retail containers containing alcoholic liquor to which this Schedule applies.
- (2) It is a defence for a person charged with an offence under this paragraph to prove that the retail containers in question were not required to be stamped.
- (3) A person who commits an offence under this paragraph is liable on summary conviction to a fine not exceeding £5,000.

- (4) A retail container in relation to which an offence under this paragraph is committed is liable to forfeiture (together with its contents).

## **6 Offences of using premises for sale of liquor in or from unstamped containers**

- (1) A manager of premises commits an offence if —
- (a) he suffers the premises to be used for the sale of liquor in an unstamped retail container, or for the sale of liquor that is from an unstamped retail container; and
  - (b) the liquor is alcoholic liquor to which this Schedule applies.
- (2) It is a defence for a person charged with an offence under this paragraph to prove that the retail container in question was not required to be stamped.
- (3) A person who commits an offence under this paragraph is liable on summary conviction to a fine not exceeding £5,000.
- (4) Where an offence is committed under this paragraph, all unstamped retail containers of alcoholic liquor to which this Schedule applies that are on the premises at the time of the offence are liable to forfeiture (together with their contents).
- (5) For the purposes of this Schedule a person is a “manager” of premises if he —
- (a) is entitled to control their use,
  - (b) is entrusted with their management, or
  - (c) is in charge of them.

## **7 Alcohol sales ban following conviction for offence under paragraph 6**

- (1) A court by or before which a person is convicted of an offence under paragraph 6 may make an order prohibiting the use of the premises in question for the sale of alcoholic liquor during a period specified in the order.
- (2) The period specified in an order under this paragraph shall not exceed six months; and the first day of the period shall be the day specified as such in the order.
- (3) If a manager of premises suffers the premises to be used in breach of an order under this paragraph, he commits an offence and is liable on summary conviction to a fine not exceeding £5,000.

## **8 Penalty for altering duty stamps**

- (1) This paragraph applies where a person —

- (a) alters a type A stamp, otherwise than in accordance with regulations under this Schedule, after it has been issued, or
  - (b) so alters a type B stamp after the label in which it is incorporated has been produced.
- (2) His conduct attracts a penalty under section 9 of the Finance Act 1994 (of Parliament) (civil penalties), as it has effect in the Island.
  - (3) The stamp, or the label in which it is incorporated, is liable to forfeiture.

## **9 Penalty for affixing wrong, altered or forged stamps, or over-labelling**

- (1) This paragraph applies where a person affixes to a retail container that is required to be any of the items mentioned in sub-paragraphs (2) to (5).
- (2) The first is —
  - (a) a type A stamp, or
  - (b) a label incorporating a type B stamp,  
if the stamp is not a correct stamp for that container in accordance with regulations made under this Schedule.
- (3) The second is —
  - (a) a type A stamp that has been altered, otherwise than in accordance with regulations under this Schedule, after it has been issued, or
  - (b) a label incorporating a type B stamp if the stamp has been so altered after the label has been produced.
- (4) The third is an item that purposes to be, but is not —
  - (a) a type A stamp, or
  - (b) a label incorporating a type B stamp.
- (5) The fourth is any label or other item affixed in such a way as to cover up all or part of —
  - (a) a type A stamp affixed to the container, or
  - (b) a type B stamp incorporated in a label affixed to the container,  
except where the label or other item is so affixed in accordance with regulations under this Schedule.
- (6) The person's conduct attracts a penalty under section 9 of the Finance Act 1994 (of Parliament) (civil penalties), as it has effect in the Island.
- (7) The container is liable to forfeiture (together with its contents).

## **10 Penalty for failing to comply with the regulations**

- (1) If a person fails to comply with a requirement imposed by or under regulations under this Schedule —

- (a) his conduct attracts a penalty under section 9 of the Finance Act 1994 (of Parliament) (civil penalties), as it has effect in the Island;
  - (b) any article in respect of which he fails to comply with the requirement is liable to forfeiture (including, in the case of a container, its contents).
- (2) Regulations under this Schedule may make provision as to the amount by reference to which penalty under sub-paragraph (1)(a) is to be calculated.

## 11 Forfeitures of forged, altered or stolen duty stamps

- (1) The following items are liable to forfeiture.
- (2) The first is an item that purports to be, but is not —
- (a) a type A stamp, or
  - (b) a label incorporating a type B stamp.
- (3) The second is —
- (a) a type A stamp that has been altered, otherwise than in accordance with regulations under this Schedule, after it has been issued, or
  - (b) a label incorporating a type B stamp if the stamp has been so altered after the label has been produced.
- (4) The third is —
- (a) a type A stamp, or
  - (b) a label incorporating a type B stamp, that is in a person's possession unlawfully.

## 12 Interpretation

In this Schedule —

“**duty stamp**” has the meaning given by paragraph 1(5);

“**prescribed**” means prescribed in regulations made by the Treasury;

“**retail container**” has the meaning given in paragraph 1(2);

“**stamped**” and “**unstamped**” are to be read in accordance with paragraph 1(4);

“**type A stamp**” has the meaning given by paragraph 1(5)(a);

“**type B stamp**” has the meaning given by paragraph 1(5)(b).

### SCHEDULE 2B<sup>264</sup>

[Section 71H]

### PENALTIES FOR CONTRAVENTIONS OF PART VIA



## 1 Liability to penalty

A penalty is payable by a person (“P”) who contravenes section 71C(1) or 71F.

## 2 Amount of penalty

(1) If the contravention is deliberate and concealed, the amount of the penalty is the maximum amount (see paragraph 10).

(2) If the contravention is deliberate but not concealed, the amount of the penalty is 70% of the maximum amount.

(3) In any other case, the amount of the penalty is 30% of the maximum amount.

(4) The contravention is —

- (a) “deliberate and concealed” if the contravention is deliberate and P makes arrangements to conceal the contravention; and
- (b) “deliberate but not concealed” if the contravention is deliberate but P does not make arrangements to conceal the contravention.

## 3 Reductions for disclosure

(1) Paragraph 4 provides for reductions in penalties under this Schedule where P discloses a contravention.

(2) P discloses a contravention by —

- (a) telling the Treasury about it;
- (b) giving the Treasury reasonable help in identifying any other contraventions of section 71C(1) or 71F of which P is aware; and
- (c) allowing the Treasury access to records for the purpose of identifying such contraventions.

(3) Disclosure of a contravention —

- (a) is “unprompted” if made at a time when P has no reason to believe that the Treasury has discovered or is about to discover the contravention; and
- (b) otherwise, is “prompted”.

(4) In relation to disclosure “quality” includes timing, nature and extent.

4 (1) Where P discloses a contravention, the Treasury must reduce the penalty to one that reflects the quality of the disclosure.

(2) If the disclosure is prompted, the penalty may not be reduced below —

- (a) in the case of a contravention that is deliberate and concealed, 50% of the maximum amount;
- (b) in the case of a contravention that is deliberate but not concealed, 35% of the maximum amount; and

- (c) in any other case, 20% of the maximum amount.
- (3) If the disclosure is unprompted, the penalty may not be reduced below —
- (a) in the case of a contravention that is deliberate and concealed, 30% of the maximum amount;
  - (b) in the case of a contravention that is deliberate but not concealed, 20% of the maximum amount; and
  - (c) in any other case, 10% of the maximum amount.

## 5 Special reduction

- (1) If the Treasury thinks it right because of special circumstances, it may reduce a penalty under this Schedule.
- (2) In sub-paragraph (1), “special circumstances” does not include ability to pay.
- (3) In sub-paragraph (1), the reference to reducing a penalty includes a reference to —
- (a) staying a penalty; and
  - (b) agreeing a compromise in relation to proceedings for a penalty.

## 6 Assessment

- (1) Where P becomes liable for a penalty under this Schedule, the Treasury must —
- (a) assess the penalty;
  - (b) notify P; and
  - (c) state in the notice the contravention in respect of which the penalty is assessed.
- (2) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.
- (3) An assessment is to be treated as an amount of duty due from P under this Act and may be recovered accordingly.
- (4) An assessment of a penalty under this Schedule may not be made later than one year after evidence of facts sufficient in the opinion of the Treasury to indicate the contravention comes to its knowledge.
- (5) Two or more contraventions may be treated by the Treasury as a single contravention for the purposes of assessing a penalty under this Schedule.

## 7 Reasonable excuse

- (1) Liability to a penalty does not arise under this Schedule in respect of a contravention which is not deliberate if P satisfies the Treasury or (on an appeal made



to the appeal tribunal) the tribunal that there is a reasonable excuse for the contravention.

(2) For the purposes of sub-paragraph (1), where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the contravention.

## 8 Companies: officer's liability

(1) Where a penalty under this Schedule is payable by a company in respect of a contravention which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as the Treasury may specify by written notice to the officer.

(2) Sub-paragraph (1) does not allow the Treasury to recover more than 100% of a penalty.

(3) In the application of sub-paragraph (1) to a body corporate, "officer" means —

- (a) a director (including a shadow director);
- (b) a manager;
- (c) a secretary; and
- (d) the registered agent of a limited liability company registered pursuant to the *Limited Liability Companies Act 1996*.

(4) In sub-paragraph (3), "shadow director" means a person in accordance with whose directions or instructions the directors of the company are accustomed to act. However, a person is not deemed a shadow director by means only that the directors act on advice given by him or her in a professional capacity.

(5) In the application of sub-paragraph (1) in any other case, "officer" means —

- (a) a director;
- (b) a manager;
- (c) a secretary; and
- (d) any other person managing or purporting to manage any of the company's affairs.

(6) Where the Treasury has specified a portion of a penalty in a notice given to an officer under sub-paragraph (1) —

- (a) paragraph 5 applies to the specified portion as to a penalty;
- (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given;
- (c) sub-paragraphs (3) to (5) of paragraph 6 apply as if the notice were an assessment of a penalty; and
- (d) paragraph 9 applies as if the officer were liable to a penalty.

(7) In this paragraph “company” means any body corporate, limited liability company or unincorporated association, but does not include a partnership.

## 9 Double jeopardy

P is not liable to a penalty under this Schedule in respect of a contravention in respect of which P has been convicted of an offence.

## 10 The maximum amount

(1) In this Schedule “the maximum amount” means £10,000.

(2) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, it may by regulations substitute for the sum for the time being specified in sub-paragraph (1) such other sum as appears to it to be justified by the change.

(3) In sub-paragraph (2), “relevant date” means —

- (a) 26 March 2015; and
- (b) each date on which the power conferred by that sub-paragraph has been exercised.

(4) Regulations under this paragraph do not apply to any contravention which occurred before the date on which they come into force.

## 11 Appeal tribunal

In this Schedule “appeal tribunal” means the VAT and Duties Tribunal as established pursuant to Schedule 13 to the *Value Added Tax Act 1996*.

### Schedule 3<sup>265</sup>

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Subs (2) substituted by SD84/93 and amended by SD484/05.

<sup>2</sup> Para (a)[references to black beer] repealed by SD578/12.

<sup>3</sup> Subs (3) amended by GC269/88, by SD210/93 and by SD390/93. Para (b) repealed by SD210/93.

<sup>4</sup> Subs (4) amended by SD518/94.

<sup>5</sup> Words omitted with effect from 1/4/2013 by SD578/12.

<sup>6</sup> Subs (5) amended by GC269/88, by SD518/94 and by SD706/96.

<sup>7</sup> Subs (6) amended by SD518/94 (with saving), by SD706/96 and by SD685/10 effective 1/9/2010.

<sup>8</sup> Repealed with effect from 1/4/2013 by SD578/12.

<sup>9</sup> Subs (9) repealed by SD240/02.

<sup>10</sup> Subs (10) added by GC269/88.

<sup>11</sup> Subs (1) amended by SD84/93 and by SD484/05.

<sup>12</sup> Subs (4) amended by SD210/93 and by SD227/97.

<sup>13</sup> Subs (6) amended by SD210/93.

<sup>14</sup> Subs (7) repealed by SD210/93.

<sup>15</sup> Subs (8) amended by SD484/05.

<sup>16</sup> Subs (9) amended by SD484/05.

<sup>17</sup> Subs (3) amended by SD210/93.

<sup>18</sup> Subs (4) repealed by SD210/93.

<sup>19</sup> S 4 amended by SD188/11 effective 28/3/2011, by SD195/12 effective 26/03/2012, by SD207/13 effective 25/03/2013 and by SD2015/0131 effective 23/03/2015.

<sup>20</sup> S 5 repealed by SD578/12 with effect from 1 April 2013.

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- <sup>21</sup> S 5A repealed by SD453/95.
- <sup>22</sup> S 5A inserted by SD152/09.
- <sup>23</sup> Subs (2) amended by SD461/94.
- <sup>24</sup> Subs (3) added by SD570/98.
- <sup>25</sup> S 7 substituted by GC269/88. Subs (4) added by SD570/98.
- <sup>26</sup> S 8 repealed by SD484/05.
- <sup>27</sup> Subs (1) amended by SD484/05.
- <sup>28</sup> Subs (2) amended by SD461/94.
- <sup>29</sup> Subs (3) added by SD570/98.
- <sup>30</sup> Subs (4) added by SD570/98.
- <sup>31</sup> Subs (2) added by SD570/98.
- <sup>32</sup> Subs (3) added by SD570/98.
- <sup>33</sup> Subs (4) added by SD570/98.
- <sup>34</sup> Subs (3) amended by SD377/96.
- <sup>35</sup> Subs (4) repealed by SD592/06.
- <sup>36</sup> Subs (6) amended by SD461/94.
- <sup>37</sup> Subs (7) repealed by SD461/94.
- <sup>38</sup> Subs (8) amended by SD461/94.
- <sup>39</sup> S 13 repealed by SD592/06.
- <sup>40</sup> Subs (4) repealed by SD592/06.
- <sup>41</sup> Subs (5) substituted by SD461/94.
- <sup>42</sup> Subs (7) amended by SD461/94.
- <sup>43</sup> Subs (8) repealed by SD461/94.
- <sup>44</sup> Subs (2) amended by SD461/94.
- <sup>45</sup> Para (b) amended by SD461/94.
- <sup>46</sup> Subs (1) amended by Police Powers and Procedures Act 1998 s 77.
- <sup>47</sup> Fine as increased by Criminal Justice (Penalties, Etc.) Act 1993 s 1.
- <sup>48</sup> Subs (4) amended by SD377/96.
- <sup>49</sup> Subs (5) repealed by SD592/06.
- <sup>50</sup> Subs (6) amended by SD461/94.
- <sup>51</sup> Subs (4) amended by SD461/94.
- <sup>52</sup> Subs (5) repealed by SD461/94.
- <sup>53</sup> Subs (1) amended by SD461/94.
- <sup>54</sup> Subs (2) amended by SD461/94.
- <sup>55</sup> S 20 repealed by SD592/06.
- <sup>56</sup> S 21 repealed by SD578/12 Article 3(4).
- <sup>57</sup> S 22 repealed by SD377/96.
- <sup>58</sup> S 23 repealed by SD592/06.
- <sup>59</sup> Para (d) amended by SD210/93.
- <sup>60</sup> Fine as increased by Criminal Justice (Penalties, Etc.) Act 1993 s 1.
- <sup>61</sup> Fine as increased by Criminal Justice (Penalties, Etc.) Act 1993 s 1.



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- <sup>62</sup> Subs (3) amended by Police Powers and Procedures Act 1998 s 77.
- <sup>63</sup> S 25 repealed by SD592/06.
- <sup>64</sup> S 26 repealed by GC13/90.
- <sup>65</sup> S 27 repealed by SD592/06.
- <sup>66</sup> Para (c) amended by GC269/88.
- <sup>67</sup> Para (d) repealed by GC269/88.
- <sup>68</sup> Subs (1) amended by SD461/94.
- <sup>69</sup> Para (b) amended by GC269/88.
- <sup>70</sup> Subs (5) amended by SD461/94.
- <sup>71</sup> Subs (2) substituted by SD461/94.
- <sup>72</sup> S 30 repealed by SD592/06.
- <sup>73</sup> Heading substituted by SD664/11.
- <sup>74</sup> Subs (1) amended by SD240/02.
- <sup>75</sup> Subs (1ZAA) inserted by SD664/11.
- <sup>76</sup> Reference to “the duty” replaced by SD664/11.
- <sup>77</sup> Para (za) inserted by SD664/11 and duty rate varied by SD207/13, by SD2014/113 and by SD2015/0131 effective 23/03/15.
- <sup>78</sup> Para (a) amended by SD188/11 effective 28/3/2011 and by SD664/11. Duty rate varied by SD195/12 effective 26/3/2012, by SD207/13 effective 25/03/2013, by SD2014/113 effective 24/03/2014 and by SD2015/0131 effective 23/03/2015.
- <sup>79</sup> Para (b) amended by SD664/11.
- <sup>80</sup> Para (c) amended by SD664/11.
- <sup>81</sup> Subs (1AA) inserted by SD240/02.
- <sup>82</sup> Subs (1A) inserted by SD390/93 and amended by SD664/11.
- <sup>83</sup> Para (a) amended by SD664/11.
- <sup>84</sup> S 31 substituted by SD210/93.
- <sup>85</sup> Cross-heading substituted by SD664/11
- <sup>86</sup> S 31A inserted by SD240/02.
- <sup>87</sup> Subs (5) amended by SD664/11.
- <sup>88</sup> S 31B inserted by SD240/02.
- <sup>89</sup> Para (b) amended by SD425/04.
- <sup>90</sup> Subs (5) amended by SD425/04.
- <sup>91</sup> Subs (6) amended by SD425/04.
- <sup>92</sup> Subs (10) amended by SD425/04.
- <sup>93</sup> S 31C inserted by SD240/02.
- <sup>94</sup> Heading substituted by SD664/11.
- <sup>95</sup> Subs (2) substituted by SD664/11.
- <sup>96</sup> Subs (6A) inserted by SD425/04.
- <sup>97</sup> Subs (6B) inserted by SD425/04.
- <sup>98</sup> Subs (7) substituted by SD425/04.
- <sup>99</sup> S 31D inserted by SD240/02. Subs (8) substituted by SD425/04.
- <sup>100</sup> Para (b) amended by SD425/04.

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- <sup>101</sup> Subs (6) amended by SD425/04.
- <sup>102</sup> Subs (7) amended by SD425/04.
- <sup>103</sup> Subs (11) amended by SD425/04.
- <sup>104</sup> S 31E inserted by SD240/02.
- <sup>105</sup> Section 31F heading substituted by SD664/11.
- <sup>106</sup> Subs (2) substituted by SD664/11.
- <sup>107</sup> Subs (9A) inserted by SD425/04.
- <sup>108</sup> Subs (9B) inserted by SD425/04.
- <sup>109</sup> S 31F inserted by SD240/02. Subs (10) amended by SD425/04.
- <sup>110</sup> Para (a) amended by SD664/11
- <sup>111</sup> Para (a) amended by SD664/11.
- <sup>112</sup> Para (a) amended by SD664/11.
- <sup>113</sup> Words substituted by SD664/11.
- <sup>114</sup> Para (a) amended by SD644/11.
- <sup>115</sup> S 31G inserted by SD240/02.
- <sup>116</sup> Subs (1) amended by SD664/11.
- <sup>117</sup> S 31H inserted by SD522/02.
- <sup>118</sup> Duty rate varied by SD207/13 effective 25/03/2013, by SD2014/113 effective 24/03/2014 and by SD2015/0131 effective 23/03/2015.
- <sup>119</sup> S 32 inserted by SD664/11.
- <sup>120</sup> Original sections 32 to 35 repealed by SD210/93.
- <sup>121</sup> S 36 substituted by SD210/93 amended by SD664/11.
- <sup>122</sup> Subs (8) amended by SD461/94.
- <sup>123</sup> S 36A inserted by SD210/93.
- <sup>124</sup> Para (a) amended by SD210/93.
- <sup>125</sup> Para (a) repealed by SD390/93.
- <sup>126</sup> Para (b) amended by SD390/93.
- <sup>127</sup> Subs (2) amended by SD390/93.
- <sup>128</sup> Subs (3) substituted by SD210/93 and amended by SD390/93.
- <sup>129</sup> Subs (4) amended by SD210/93 and by SD390/93.
- <sup>130</sup> Subs (6) amended by GC269/88.
- <sup>131</sup> S 38 repealed by SD390/93.
- <sup>132</sup> Subs (1) amended by SD210/93.
- <sup>133</sup> Subs (2) amended by SD461/94.
- <sup>134</sup> Para (a) substituted by GC269/88 and amended by SD390/93.
- <sup>135</sup> Para (b) repealed by SD390/93.
- <sup>136</sup> Para (c) inserted by GC269/88.
- <sup>137</sup> Subs (1) amended by GC269/88.
- <sup>138</sup> Subs (2) repealed SD210/93.
- <sup>139</sup> S 41 substituted by SD210/93. Subs (2) amended by SD461/94.
- <sup>140</sup> Subs (5) amended by SD461/94.
- <sup>141</sup> S42 substituted by SD210/93. Subs (6) amended by SD461/94.



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- <sup>142</sup> S 43 repealed by SD210/93.
- <sup>143</sup> Para (k) added by SD522/02.
- <sup>144</sup> Opening words of subsection (1) amended by SD664/11.
- <sup>145</sup> S 44 substituted by SD210/93. Subs (3) substituted by SD461/94.
- <sup>146</sup> Subs (1) amended by SD210/93.
- <sup>147</sup> Subs (2) amended by SD210/93 and SD664/11.
- <sup>148</sup> S 46 repealed by SD210/93.
- <sup>149</sup> S 47 repealed by SD390/93.
- <sup>150</sup> Ss 48 and 49 repealed by SD210/93.
- <sup>151</sup> Subs (1) amended by SD390/93.
- <sup>152</sup> Subs (4) added by GC269/88 and amended by SD522/02 and by SD592/06.
- <sup>153</sup> Subs (1) amended by SD390/93.
- <sup>154</sup> Para (aa) inserted by SD390/93.
- <sup>155</sup> Subs 51(2)(b) amended by SD578/12.
- <sup>156</sup> Para (d) amended by GC269/88 and by SD592/06.
- <sup>157</sup> Para (e) repealed by SD390/93.
- <sup>158</sup> Subs (3) added by GC269/88 and amended by SD592/06.
- <sup>159</sup> Subs (4) repealed by SD390/93.
- <sup>160</sup> S 51A repealed by SD592/06.
- <sup>161</sup> S 51B inserted by SD706/96.
- <sup>162</sup> Para (e) amended by SD227/97.
- <sup>163</sup> Subs (2) amended by SD461/94.
- <sup>164</sup> S 53 amended by SD84/93.
- <sup>165</sup> Subs (1) amended by SD390/93.
- <sup>166</sup> Subs (2) repealed by SD390/93.
- <sup>167</sup> Para (b) substituted with savings by SD518/94.
- <sup>168</sup> Subs (1) substituted by GC269/88.
- <sup>169</sup> Subs (2) substituted by SD461/94.
- <sup>170</sup> Subs (1A) inserted by GC269/88.
- <sup>171</sup> Subs (2) amended by SD461/94.
- <sup>172</sup> Subs (1) amended by SD377/96.
- <sup>173</sup> Para (a) amended by SD706/96, by SD188/11 effective 28/3/2011, by SD195/12 effective 26/3/2012, by SD207/13 effective 25/03/2013 and by SD2015/0131 effective 23/03/2015.
- <sup>174</sup> Para (aa) inserted by SD706/96 and amended by SD188/11 effective 28/3/2011, by SD195/12 effective 26/3/2012, by SD207/13 effective 25/03/2013 and by SD2014/113 effective 24/03/2014.
- <sup>175</sup> Para (b) amended by SD188/11 effective 28/3/2011, by SD207/13 effective 25/03/2013 and by SD2015/0131 effective 23/03/2015.
- <sup>176</sup> Subs (1A) inserted by SD377/96.
- <sup>177</sup> Subs (2) amended by SD461/94.
- <sup>178</sup> Para (g) added by SD509/01.

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- <sup>179</sup> Subs (4) amended by SD461/94.
- <sup>180</sup> Subs (5) added by SD706/96.
- <sup>181</sup> S 58A inserted by SD706/96.
- <sup>182</sup> S 58B inserted by SD706/96.
- <sup>183</sup> Subs (2) added by GC269/88.
- <sup>184</sup> Subs (1A) inserted by SD706/96.
- <sup>185</sup> Subs (2) amended by SD461/94.
- <sup>186</sup> S 60A inserted by SD390/93.
- <sup>187</sup> S 60B inserted by SD453/95.
- <sup>188</sup> S 61 repealed by SD592/06.
- <sup>189</sup> S 62 repealed by SD210/93.
- <sup>190</sup> S 63 repealed by SD268/07.
- <sup>191</sup> Subs (1) amended by SD484/05.
- <sup>192</sup> Subs (2) amended by SD484/05.
- <sup>193</sup> Subs (5) amended by SD461/94 and by SD484/05.
- <sup>194</sup> Subs (7) amended by SD484/05.
- <sup>195</sup> S 64A inserted by SD573/04 and made operative by SD74/06 w.e.f. 1/3/2006.
- <sup>196</sup> Para (a) amended by SD484/05.
- <sup>197</sup> Para (b) amended by SD484/05.
- <sup>198</sup> Para (c) amended by SD484/05.
- <sup>199</sup> Para (d) amended by SD484/05.
- <sup>200</sup> Para (e) amended by SD484/05.
- <sup>201</sup> Para (f) amended by SD484/05.
- <sup>202</sup> Para (g) amended by SD484/05.
- <sup>203</sup> Para (h) amended by SD484/05.
- <sup>204</sup> Para (aa) inserted by SD484/05.
- <sup>205</sup> Para (b) amended by SD484/05.
- <sup>206</sup> Subs (4) amended by SD461/94.
- <sup>207</sup> Subs (5) amended by SD461/94 and by SD484/05.
- <sup>208</sup> Subs (6) amended by SD461/94 and by SD484/05.
- <sup>209</sup> S 66 substituted by SD484/05.
- <sup>210</sup> S 67 amended by SD484/05.
- <sup>211</sup> Fine as increased by Criminal Justice (Penalties, Etc.) Act 1993 s 1.
- <sup>212</sup> Subs (3) amended by SD484/05.
- <sup>213</sup> S 68A inserted by SD390/93.
- <sup>214</sup> S 68B inserted by SD484/05. Subs (4) amended by SD101/09.
- <sup>215</sup> Fine as increased by Criminal Justice (Penalties, Etc.) Act 1993 s 1.
- <sup>216</sup> S 70 repealed by SD592/06.
- <sup>217</sup> Part VIA inserted by SD2015/0162.
- <sup>218</sup> S 71A inserted by SD2015/0162.
- <sup>219</sup> S 71B inserted by SD2015/0162.



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- <sup>220</sup> Subs (1) not in operation until 1 January 2016 [see SD2015/0162 Art 2(2)].
- <sup>221</sup> S 71C inserted by SD2015/0162, see transitional provisions in SD2015/0162 Arts 2(4) & (5).
- <sup>222</sup> S 71D inserted by SD2015/0162.
- <sup>223</sup> S 71E inserted by SD2015/0162.
- <sup>224</sup> S 71F not in operation [see SD2015/0162 Art 2(3)].
- <sup>225</sup> S 71F inserted by SD2015/0162.
- <sup>226</sup> S 71G inserted by SD2015/0162.
- <sup>227</sup> S 71H inserted by SD2015/0162.
- <sup>228</sup> S 71I inserted by SD2015/0162.
- <sup>229</sup> S 71J inserted by SD2015/0162.
- <sup>230</sup> S 71K inserted by SD2015/0162.
- <sup>231</sup> Subs (3) added by SD227/97. See SD706/96.
- <sup>232</sup> Definition of “authorised denaturer”, previously definition of “authorised methylator”, substituted by SD484/05.
- <sup>233</sup> Definition of “black beer” repealed by SD578/12.
- <sup>234</sup> Definitions of “brewer” and “brewer for sale” repealed by SD210/93.
- <sup>235</sup> Definition of “British compounded spirits” amended by SD484/05.
- <sup>236</sup> Definition of “denatured alcohol” inserted by SD484/05.
- <sup>237</sup> Definition of “the Finance Act 1994” inserted by SD461/94.
- <sup>238</sup> Definition of “general beer duty” inserted by SD664/11.
- <sup>239</sup> Definition of “high strength beer duty” inserted by SD664/11.
- <sup>240</sup> Definition of “licensed denaturer”, previously definition of “licensed methylator”, substituted by SD484/05.
- <sup>241</sup> Definition of “limited licence to brew beer” repealed by SD210/93.
- <sup>242</sup> Definition of “methylated spirits” repealed by SD484/05.
- <sup>243</sup> Definition of “package” inserted by SD210/93.
- <sup>244</sup> Definition of “packager” inserted by SD210/93.
- <sup>245</sup> Definition of “registered brewer” inserted by SD210/93.
- <sup>246</sup> Definition of “wholesale” amended by SD2015/0162.
- <sup>247</sup> Item inserted by SD2015/0162.
- <sup>248</sup> Subs (3) amended by Territorial Sea (Consequential Provisions) Act 1991 Schs 1 and 2.
- <sup>249</sup> Subs (4) amended by SD2015/0162.
- <sup>250</sup> Subs (1) substituted by SD390/93.
- <sup>251</sup> Subs (2) substituted by SD390/93.
- <sup>252</sup> Subs (3) substituted by SD390/93.
- <sup>253</sup> Subs (4) substituted by SD390/93.
- <sup>254</sup> Subs (5) added by SD390/93.
- <sup>255</sup> Subs (6) added by SD390/93.
- <sup>256</sup> Subs (7) added by SD390/93.
- <sup>257</sup> Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.

<sup>258</sup> ADO (whole Act) 1/4/1987 (GC53/87).

<sup>259</sup> Sch 1 substituted by SD195/12, by SD207/13 and by SD2014/113.

<sup>260</sup> Part 2 substituted by SD2015/0131 effective 23/03/2015.

<sup>261</sup> Schedule 2A inserted by SD573/04 and made operative by SD74/06 w.e.f. 1/3/2006.

<sup>262</sup> Item (a) amended by SD41/06.

<sup>263</sup> Item (b) amended by SD41/06.

<sup>264</sup> Sch 2B inserted by SD2015/0162.

<sup>265</sup> Sch 3 repealed by Statute Law Revision Act 1992 Sch 2.