

Explanatory Notes

Finance (No.2) Bill 1998



HMTREASURY

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CLAUSE 1: RATE OF DUTY ON BEER

INTRODUCTION

1. This clause increases the rate of excise duty charged on beer, with effect from 1 January 1999.

DETAILS OF THE CLAUSE

2. Subsection (1) substitutes a new rate of duty for beer in section 36(1) of the Alcoholic Liquor Duties Act 1979. The previous rate of £11.14 is replaced by £11.50 per hectolitre per cent of alcohol in the beer.
3. Subsection (2) makes the change effective from 1 January 1999.

BACKGROUND

4. This increase, in line with inflation, does not represent an increase in real terms. When taken in conjunction with previous measures, alcoholic drinks are taxed less heavily than they were at the beginning of the Single Market. Compared to rates of duty in January 1994, in real terms, excise duty on beer have fallen by 6 per cent in January 1998. This increase is necessary to maintain the revenue in real terms.
5. The increase will take effect from 1 January 1999.
6. The estimated cost of revalorisation is nil on an indexed base in 1999/2000. The estimated cost of the freeze on spirits is £20 million and the estimated cost of the changes to low strength sparkling wine and sparkling cider is £5 million, on an indexed basis in 1999/2000. The RPI impact for the whole alcohol package is estimated to be 0.04 on a non-indexed base.

**CLAUSE 2 : RATES OF DUTY ON LOW STRENGTH
SPARKLING WINE AND MADE-WINE AND SPARKLING
CIDER AND PERRY**

INTRODUCTION

1. This clause reduces the rate on low strength sparkling wine by 20 per cent, and increases the rate on sparkling cider and perry by 20 per cent, with effect from 6pm 17 March 1998.

DETAILS OF THE CLAUSE

2. Subsection (1) amends the Alcoholic Liquor Duties Act 1979 as follows:

3. Subsection (2) in Part I of the Table in Schedule 1, in column 2 of the fourth entry (rate of duty per hectolitre on sparkling wine or made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent), £201.50 shall be replaced by £161.20 per hectolitre.

4. Subsection (3) in section 62(1A)(a) (a rate of duty per hectolitre on sparkling cider of a strength exceeding 5.5 per cent), £37.54 shall be replaced by £45.05 per hectolitre.

5. Subsection (4) makes the change effective from 6pm 17 March 1998.

BACKGROUND

6. Infraction proceedings against the UK were threatened by the European Commission in 1995, alleging that sparkling cider (mainly domestically produced) had a duty advantage over competing low strength wine (mainly imported). The products are frequently offered for sale with very similar presentations (ie in mushroom stoppered bottles) and the duty differential is anomalous.

7. The UK negotiated an agreement with the Commission to align the duty rates on these two products by 1 January 1999. These changes will impact mainly on a small number of cider producers. Sparkling cider represents less than 0.5 per cent of the market. The

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alignment is being undertaken in graduated steps to enable these producers to adapt to the change.

8. The reduction in the low strength sparkling wine rate when taken in conjunction with the increase in the sparkling cider rate represents another significant step in the process of alignment of these rates to ensure fair competition between competing products.

9. The reduction in low strength sparkling wine will take effect from 6pm on 17 March.

10. The estimated cost of revalorisation is nil on an indexed base in 1999/2000. The estimated cost of the freeze on spirits is £20 million and the estimated cost of the changes to low strength sparkling wine and sparkling cider is £5 million, on an indexed basis in 1999/2000. The RPI impact for the whole alcohol package is estimated to be 0.04 on a non-indexed base.

CLAUSE 3 : RATES OF DUTY ON WINE AND MADE-WINE

INTRODUCTION

1. This cause increases the rate of excise duty charged on all wines and made-wines of a strength not exceeding 22 per cent except those for low strength sparkling wines and made-wines (which are the subject of clause 2), with effect from 1 January 1999.

DETAILS OF THE CLAUSE

2. Subsection (1) replaces Part I of the Table in Schedule 1 to the Alcoholic Liquor Duties Act 1979 with a new Part I, showing the following new rates of duty on wine and made-wine:

Part I

- a) Wine or made-wine of a strength not exceeding 4 per cent: £46.01 per hectolitre.
- b) Wine or made-wine of a strength exceeding 4 per cent but not exceeding 5.5 per cent: £63.26 per hectolitre.
- c) Wine or made-wine of a strength exceeding 5.5 per cent but not exceeding 15 per cent and not being sparkling: £149.28 per hectolitre.
- d) 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: £213.27 per hectolitre.
- e) Wine or made-wine of a strength exceeding 15 per cent but not exceeding 22 per cent: £199.03 per hectolitre.

Note: The rate on sparkling wine and sparkling made-wine of a strength exceeding 5.5 per cent but less than 8.5 per cent has been reduced and is the subject of clause 2.

3. Subsection (2) brings the new Table into effect on 1 January 1999.

BACKGROUND

4. These increases, in line with inflation, do not represent an increase in real terms. When taken in conjunction with previous measures, alcoholic drinks are taxed less heavily than they were at the

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beginning of the Single Market. Compared to rates of duty in January 1994, in real terms, excise duty on wine has fallen by 5 per cent in January 1998. These increases are necessary to maintain the revenue in real terms.

5. The excise duty rate for low strength sparkling wine and made wine (of a strength exceeding 5.5 per cent, but less than 8.5 per cent) is the subject of clause 2.

6. The reduction in low strength sparkling wine will take effect from 6pm 17 March, the increases will take effect from 1 January 1999.

7. The estimated cost of revalorisation is nil on an indexed base in 1999/2000. The estimated cost of the freeze on spirits is £20 million and the estimated cost of the changes to low strength sparkling wine and sparkling cider is £5 million, on an indexed basis in 1999/2000. The RPI impact for the whole alcohol package is estimated to be 0.04 on a non-indexed base.

CLAUSE 4 : RATES OF DUTY ON CIDER

INTRODUCTION

1. This clause increases the rates of excise duty charged on standard and strong cider with effect from 1 January 1999.

DETAILS OF THE CLAUSE

2. Subsection (1) substitutes the following new rates of excise duty in section 62(1A) of the Alcoholic Liquor Duties Act 1979:

- £37.92 per hectolitre of strong cider, replacing the previous rate of £36.74
- £25.27 per hectolitre of standard cider, replacing the previous rate of £24.49.

3. Subsection (2) makes the changes effective from 1 January 1999.

BACKGROUND

4. These increases to standard and strong cider, in line with inflation, do not represent an increase in real terms. They will prevent further erosion of the revenue in real terms.

5. The rate on sparkling cider and perry will be increased by 20 per cent and is the subject of clause 2.

6. The increases will take effect from 1 January 1999.

7. The estimated cost of revalorisation is nil on an indexed base in 1999/2000. The estimated cost of the freeze on spirits is £20 million and the estimated cost of the changes to low strength sparkling wine and sparkling cider is £5 million, on an indexed basis in 1999/2000. The RPI impact for the whole alcohol package is estimated to be 0.04 on a non-indexed base.

**CLAUSE 5 : REPEAL OF ALCOHOLIC LIQUOR DUTIES
ACT 1979 SECTION 42**

INTRODUCTION

1. This clause and Schedule 27 Part I(1) simplifies the law governing the refund of excise duty on duty paid beer for export or removal to ship's stores, known as drawback. It repeals section 42 of the Alcoholic Liquor Duties Act 1979 (ALDA 1979) which is duplicated, with the exception of shipment as stores, by provisions made in The Excise Goods (Drawback) Regulations 1995. The repeals are listed in Schedule 27 Part I(1).

DETAILS OF THE CLAUSE

2. Subsection 1 provides that section 42 of the Alcohol Liquor Duties Act 1979 (ALDA 179), which allows a refund of excise duty on beer exported from the UK or removed as ship's stores, shall cease to have effect

3 Subsection 2 provides that subsection 1 is to come into force on a day the Commissioners appoint by order made by statutory instrument.

BACKGROUND

4. When United Kingdom excise duty has been paid on goods which are subsequently exported, removed to ship's stores or destroyed, the duty may be refunded, subject to certain conditions being met. This provision is known as drawback.

5. The Alcoholic Liquor Duties Act 1979 (ALDA 1979) section 42 provides for the refund of excise duty on drawback in respect of duty paid beer being exported, or removed to ship's stores. Regulations introduced in 1995 under the Finance (No.2) Act 1992 Section 2 , with the intention of simplifying the drawback arrangements, provide for refund of excise duty for all duty paid goods which are exported, removed to warehouse for export, or destroyed, but not removed to ship's stores. This has inadvertently resulted in a measure of duplication of legislation, and a disparity between the set conditions relating to beer and those for other goods. This has resulted

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in some confusion for traders over the provision of drawback facilities for beer.

6. Before section 42 of ALDA 1979 can be repealed, however, it will be necessary to amend the 1995 Regulations to include a reference to ship's stores, for which there is not yet a completion date. The measure will, therefore, be enacted through an appointed day order which will enable Customs to set the date for it to come into force.

**CLAUSE 6: CHARGE ON PRODUCTION
(RATIONALISATION OF OILS DUTY CHARGE)**

INTRODUCTION

1. This clause and Schedule 27 Part I(2) alters the time of the imposition of the charge to excise duty on imported and on UK produced oil to the time when the oil is imported into, or produced in, the UK. The repeals are listed in Schedule 27 Part I(2).
2. The present charging scheme charges imported oil when it is imported or, if imported to a refinery, when it is delivered from the refinery for home consumption; UK produced oil (not produced from imported oil) is charged when it is delivered from the refinery (or other premises described in section 6(1)(b) of the Hydrocarbon Oil Duties Act 1979) to home consumption. This clause does not alter the time at which the excise duty becomes payable.

DETAILS OF THE CLAUSE

3. Subsection (1) - amends section 6(1) of the Hydrocarbon Oil Duties Act 1979 to fix the time when duty becomes chargeable on UK produced oil as the time of production rather than when the oil is delivered for home use.
4. Subsection (2) - creates three new subsections to section 6 of the 1979 Act.

New section 6(2) replaces the current section 6(2) as a result of the alterations explained in paragraph 1 above. The new section 6(2) ensures that (provided the conditions of paragraphs (a) to (c) of the new section are met) the duty charged on a quantity of imported oil sent to eg a refinery in the UK in duty suspension and there refined into consumable oil (which constitutes production of oil in the UK and which is charged with excise duty under the clause) does not become payable. The only duty that may become payable is that which is charged on the produced or consumable oil as it is delivered for home consumption. Therefore the net effect of new section 6(2) is to prevent excise duty being paid twice in respect of what in reality is the same oil, and to ensure that, if excise duty is payable (as it will be when the consumable oil is delivered for

home consumption), the only duty paid is that charged on the production in the UK i.e. that charged on the refinement into consumable oil.

New subsections 6(2AA) and 6(2AB) contain definitions in relation to new section 6(2).

5. Subsection (3) - provides that subsections (1) and (2) of the clause are to come into force on a day the Commissioners appoint by order made by statutory instrument.

BACKGROUND

6. This change is an essential first step in simplifying and rationalising the complex legal provisions that exist in the Hydrocarbon Oil Duties Act 1979 and is introduced as part of a programme to establish common processes and legislation across all the duties and taxes of Customs and Excise. Oil is being brought into line with alcohol and tobacco, with duty becoming chargeable when it is imported or manufactured.

7. The present arrangements for duty free storage of oil in production premises or warehouse will continue effectively to render the measure revenue neutral. The time when oil imported for storage or processing in these duty free sites becomes chargeable will change but any duty will not actually be payable until delivery to home consumption, as currently.

8. This change will provide increased revenue protection by enabling more specific duty payment points to be set by future subsidiary legislation. The implementation of the measure is therefore being delayed until these duty payment points are in place.

**CLAUSE 7: RATES OF DUTIES AND OF REBATES IN
RESPECT OF HYDROCARBON OILS**

INTRODUCTION

1. This clause increases the effective rates of excise duties on most hydrocarbon oils with effect from 6pm on 17 March 1998.

DETAILS OF THE CLAUSE

2. Subsection (1) - amends section 6(1A) of the Hydrocarbon Oil Duties Act 1979 to increase the rates of excise duty on light oils by 4.16 pence per litre (approximately 5 pence including VAT), on heavy oils that are not ultra low sulphur diesel by 4.71 pence per litre (approximately 5.5 pence including VAT), and on ultra low sulphur diesel by 3.71 pence per litre (approximately 4.5 pence including VAT).

3. Subsection (2) - amends section 11(1) of the 1979 Act to alter the rebates allowable on heavy oil. This results in an effective increase in excise duty of 0.24 pence per litre on gas oils and 0.18 pence per litre on fuel oil.

4. Subsection (3) - amends section 13A(1A) of the 1979 Act to alter the duty rebates allowable on unleaded petrol. This results in an effective increase of excise duty of 5.16 pence per litre (approximately 6 pence including VAT) on higher octane unleaded petrol (super-unleaded) and 3.71 pence per litre (approximately 4.5 pence per litre including VAT) on other unleaded petrol.

5. Subsection (4) - amends section 14 (1) of the 1979 Act to alter the duty rebate on light oil used as furnace fuel. This results in an effective increase in excise duty of 0.18 pence per litre.

6. Subsection (5) - provides for the new rates to come into force at 6pm on 17 March 1998.

BACKGROUND

7. The new rates not only reflect the commitment to future duty increases in road fuels of at least 6 per cent given in the July 1997 Budget but also recognise the relative environmental impact of different types of fuel. These increases will help the Government deliver the emission savings targets recently agreed at Kyoto by encouraging further improvements in fuel efficiency and air quality.
8. The duty on conventional diesel is increased by more than that on petrol to equalise the duty advantage diesel has enjoyed when considering measures other than volume, such as energy content, density and carbon content. This also recognises that diesel is more harmful to health than petrol in respect of particulate and nitrous oxide emissions. Similarly, the duty rate on superunleaded petrol has been increased by relatively more than for unleaded.
9. The duty differential in favour of ultra low sulphur diesel over conventional diesel has been increased to two pence per litre to help offset the higher production and distribution costs. This will further encourage manufacture and use of this cleaner fuel and should result in a pump price at least equal to conventional diesel.
10. Road fuel gases have a considerable environmental benefit over diesel and, to a lesser extent, petrol so the duty rate has been held for the second Budget in succession. As a result the price at the pump should be lower than for conventional road fuels which will help offset the cost to motorists of vehicle conversion.
11. Duty rates on gas oil and fuel oil are increased by an amount more than the rate of inflation which reflects the cost of pollution from these products and signals that all sectors must contribute to the improvement of air quality and the reduction of global warming.
12. The estimated revenue effect of these changes in 1998/99 is additional yields of £1265 million on an indexed basis and £1670 million on a non-indexed base. The impact of these changes on RPI is estimated to be +0.28 per cent.

CLAUSE 8: ULTRA LOW SULPHUR DIESEL

INTRODUCTION

1. This clause provides for a new definition of ultra low sulphur diesel with effect from 6pm on 17 March.

DETAILS OF THE CLAUSE

2. Subsection (1) - amends section 1(6) of the Hydrocarbon Oil Duties Act 1979 (meaning of "ultra low sulphur diesel") by extending the specification to include additional criteria related to density and distillation.
3. Subsection (2) - provides for the new definition to come into force at 6pm on 17 March 1998.

BACKGROUND

4. The duty differential between ultra low sulphur diesel and ordinary diesel is being increased by 1 pence per litre to 2 pence per litre in recognition that it is a cleaner fuel. However, as some low sulphur diesels deliver very little emission benefits, this further duty incentive has been accompanied by an extended technical specification to obtain the maximum environmental benefit from fuel qualifying for the lower duty rate.

CLAUSE 9: MIXTURES OF HEAVY OIL

INTRODUCTION

1. This clause provides for revenue safeguards against the mixing of Ultra Low Sulphur Diesel (ULSD) with other less environmentally friendly heavy oils after duty has been paid at the differing rates.
2. The emission savings of ULSD can be reduced by such mixing. It can also result, by way of tax-avoidance, in a loss to the Exchequer. With a view to correcting those two deficiencies the clause applies the full rate of ordinary diesel in these cases and provides for related anti duty-avoidance measures. The clause takes effect from 6pm on 17 March 1998.

DETAILS OF THE CLAUSE

2. Subsection (1) - adds a new subsection (2A) to section 20AAA of the Hydrocarbon Oil Duties Act 1979 to provide for excise duty to be charged on mixtures of ULSD with other heavy oils which are unapproved or contravene the 1979 Act.
3. Subsection (2) - inserts a reference to new section 20AAA(2A) into section 20AAA(3) of the 1979 Act to establish the producer of the mixture as the person liable to pay the duty charged.
4. Subsection (3) - inserts a reference to new section 20AAA(2A) into section 20AAB(1)(a) thereby extending the requirement of the last mentioned section (to notify the production of a chargeable mixture) to a producer of a mixture governed by this clause.
5. Subsection (4) - amends schedule 2A to the 1979 Act by inserting a new paragraph 7A. That schedule and the related sections 20AAA and 20AAB of the 1979 Act provide revenue safeguards against mixing of the various rebated oils with each other and with full rate oils after the duty has been charged. New paragraph 7A to the schedule is provided to ensure the germane paragraphs of Schedule 2A apply to mixtures charged with duty under new section 20AAA(2A).

6. Subsection (5) - inserts new sub paragraph (1A) in paragraph 9 of Schedule 2A to ensure that the duty rate for ordinary diesel in force at the time of production is applied to mixtures under new section 20AAA(2A).

7. Subsection (6) - provides for the clause to come into force at 6pm on 17 March 1998.

BACKGROUND

8. This clause extends existing anti-avoidance provisions, that charge duty on mixtures such as leaded and unleaded petrol, to mixtures of ULSD with other heavy oil such as ordinary diesel, which mixtures can result in a revenue loss and reduction of emissions benefits from the cleaner fuel.

9. ULSD is liable to duty at a rate 2 pence per litre lower than for ordinary diesel (42.99 pence per litre compared with 44.99 pence per litre) to encourage take up of this cleaner fuel. There is some evidence of mixing of ULSD with ordinary diesel when the specification was confined to the single criterion of sulphur content which resulted in a loss of duty to the Exchequer; while there is less risk now because the ULSD definition has been tightened, there is a need to ensure that only 'cleaner' newly defined ULSD, with its maximum emissions benefits, attracts the lower duty rate.

CLAUSE 10: RATES OF TOBACCO PRODUCTS DUTY

INTRODUCTION

1. This clause increases the rates of excise duties on most tobacco products with effect from 1 December 1998.

DETAILS OF THE CLAUSE

2. Subsection 1 sets out a table of duty rates to replace that in Schedule 1 to the Tobacco Products Duty Act 1979. The duties on all tobacco products, except for hand-rolling tobacco, are increased as follows:

(a) cigarettes - the ad valorem duty by one percentage point from 21 per cent to 22 per cent of the retail price; and the specific duty by approximately 7 per cent from £72.06 to £77.09 per thousand cigarettes;

(b) cigars - by 8.4 per cent from £105.86 to £114.79 per kilogram; and

(c) other smoking tobacco and chewing tobacco - by 8.4 per cent from £46.55 to £50.47 per kilogram.

The duty on hand-rolling tobacco is unchanged at £87.74 per kilogram.

3. Subsection (2) makes the new table of duty rates effective on 1 December 1998

BACKGROUND

4. The Government is very concerned about the rates of death and disease attributed to smoking. These increases reflect the Government's determination to reduce tobacco consumption and ensure that young people do not become the smokers of tomorrow.

5. The duties on cigarettes, cigars, other smoking and chewing tobacco are increased by approximately 8.4 per cent (5.2 per cent in

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real terms). The duty on hand-rolling tobacco is not increased because of concerns over the large scale smuggling of this product.

6. The duty on cigarettes has ad valorem and specific elements. Raising the specific duty by approximately 7 per cent and the ad valorem duty by one percentage point increases the total duty by about 8.4 per cent. The increase in the ad valorem element of the duty is necessary to keep the specific duty component, as a proportion of the total tax burden, within the agreed limits set in the EC Directive. The commitment to real increases of at least 5 per cent could not have been met without increasing the ad valorem element of the duty. The duties on the other products are wholly specific.

7. The 5 per cent commitment (already announced and therefore not scored as additional revenue) is worth £nil on an indexed base in 1998/99, 1999/2000 and 2000/01, and £25 million on a non-indexed base in 1998/99. The full year revenue yield in 1999/2000 on a non-indexed base is £710 million. The RPI impact of the changes is estimated to be +0.21 per cent (non-indexed).

CLAUSE 11 : GAMING DUTY - NEW DUTY RATES

INTRODUCTION

1. This clause substitutes a new Table for the Table of gaming duty rates in the Finance Act 1997, section 11(2). The new Table contains lower gross gaming yield thresholds on which the various rates of duty are chargeable and increases the top rate of duty from $33\frac{1}{3}$ per cent to 40 per cent. It also increases the gaming duty which is charged on unregistered gaming from $33\frac{1}{3}$ per cent to 40 per cent.

DETAILS OF THE CLAUSE

2. Subsection (1) - substitutes the table in section 11(2) of the Finance Act 1997 with the following table-

Part of gross gaming yield	rate
The first £400,000	2 ½ per cent
The next £1,000,000	12½ per cent
The next £1,500,000	25 per cent
The remainder	40 per cent

3. Subsection (2) - in section 11(3) of Finance Act 1997 (rate of duty for unregistered gaming) , for $33\frac{1}{3}$ per cent substitutes the new top rate of 40 per cent.

4. Subsection (3) - makes the changes effective for accounting periods beginning on or after 1st April 1998.

BACKGROUND

5. Gaming duty is chargeable on the gross gaming yield (largely the casino's gross profit from the gaming) in any 6 monthly accounting period. The duty is banded and is charged on parts of the gross gaming yield (ggy) at increasing rates of duty. Thus from 1 April 1998 the first £400,000 of ggy is chargeable at 2.5 per cent, the next £1,000,000 at 12.5 per cent, the next £1,500,000 at 25 per cent and the remainder at 40 per cent.

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6. The increases have been determined so that the smallest casinos will pay no additional duty; other small casinos will see only a modest increase in their duty liabilities and the majority of the cost will impact on the large, London casinos.
7. The increases will raise £25 million in a full year and take effect for any accounting period beginning on or after 1 April 1998.

**CLAUSE 12: AMUSEMENT MACHINE LICENCE DUTY -
DUTY INCREASES**

INTRODUCTION

1. This clause substitutes a new table of rates for the table at section 23 of the Betting and Gaming Duties Act 1981 (the Act). It increases the cost of a 12 month licence for Amusement with Prizes and Jackpot gaming machines.

DETAILS OF THE CLAUSE

2. Subsection (1) - substitutes a new Table of rates for the Table in section 23(2) of the Betting and Gaming Duties Act 1981. The new Table increases the cost of a 12 month licence for Amusement with Prizes machines (AWP machines) and Jackpot machines with a cost per play of 5 pence or less from £535 to £645, and the cost of a 12 month licence for other Jackpot machines from £1375 to £1815. The cost of a licence for non-gaming machines (video machines, pinball tables and Skill with Prizes (quiz) machines) has not changed.

3. Subsection (2) - provides that the section has effect in relation to any amusement machine licence for which an application is received by the Commissioners of Customs and Excise after 17 March 1998.

BACKGROUND

4. The cost of an amusement machine licence is determined by the period for which the licence is granted and the type of machine it is to cover. Licences can be granted to start on any day of the month and cover any full number of months from 1 to 12. The Table of rates sets out the cost for each length of licence for each type of machine.

5. The increases in the middle and highest rate of amusement machine licence duty are above the rate of inflation and reflect the additional trading opportunities that have been afforded to the amusement machine industry by deregulation measures. The lowest rate of duty (applicable to non-gaming machines) has not increased. The freezing of this duty rate recognises that a number of these machines may become uneconomic to run and may therefore be taken out of use if the duty were increased.

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6. The increase in the rates apply to any licence application received by Customs and Excise after 17 March 1998.

**CLAUSE 13 : AMUSEMENT MACHINE LICENCE DUTY -
FURTHER EXEMPTION FOR THIRTY-FIVE-PENNY
MACHINES**

INTRODUCTION

1. This clause amends the category of excepted machines (i.e. those which are exempt from the requirement to have an amusement machine licence) so that prize machines which are not gaming machines are exempt if they are thirty-five-penny machines.

DETAILS OF THE CLAUSE

2. Subsection (1) - amends section 21(3A) of the Betting and Gaming Duties Act 1981 (the Act). It substitutes new paragraphs (b) and (c) for the existing paragraphs.

New paragraph (b) (together with other provisions of section 21 (3A)) provides that a machine shall be an excepted machine if it is an Amusement with Prizes (AWP) machine which costs 5 pence or less per play.

New paragraph (c) (together with the other provisions of section 21(3A)) provides that a machine shall be an excepted machine if it is a video machine, pinball table or Skill with Prizes machine which costs 35 pence or less per play.

3. Subsection (2) - provides that the section has effect in relation to the provision of an amusement machine at any time on or after 1 April 1998.

BACKGROUND

4. This clause increases the exemption for Skill with Prizes machines (prize machines which are not gaming machines) from 5 pence or less per play to 35 pence or less per play.

5. The change will take effect on 1 April 1998.

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6. Amusement with Prizes machines (small prize machines) remain exempt from the duty if their cost per play is 5 pence or less.
7. The estimated cost of this concession is £5 million.

**CLAUSE 14 : AMUSEMENT MACHINE LICENCE DUTY -
EXCEPTED VIDEO MACHINES**

INTRODUCTION

1. This clause introduces a new category of excepted machine i.e. machines which are exempt from the requirement to have an amusement machine licence. The excepted machines are multi-play video machines where the cost for a single player to play one game alone does not exceed 35 pence and the cost for two or more players to play a game simultaneously does not exceed 50 pence per player.

DETAILS OF THE CLAUSE

2. Subsection (1) - amends section 21(3A) of the Betting and Gaming Duties Act 1981 (the Act) to include 'an excepted video machine' as a new category of excepted machines.

3. Subsection (2) - adds new subsections (3B), (3C), (3D) and (3E) to section 21 of the Act.

Subsection (3B) provides that an amusement machine is an excepted video machine if:

- it is a video machine but is not a prize machine;
- the game can be played by one player;
- the price for a solo game does not exceed 35 pence; and
- the price for two or more players does not exceed 50 pence.

Subsection (3C) provides that the price for a solo game does not exceed 35 pence if the value or aggregate value of the coins inserted into the machine to play a solo game cannot exceed 35 pence for each time the game is played.

Subsection (3D) provides that the price for two or more players to play does not exceed 50 pence if the value or aggregate value of the coins inserted into the machine to play the game simultaneously with more than one player cannot exceed 50 pence per player for each time the game is played.

Subsection (3E) provides that for the purposes of section 21 of the Act a game is played solo if it is played by one person at a time (whether or not they are playing against a previous player).

4. Subsection (3) - amends section 25 of the Act.

(3)(a) amends section 25(4) of the Act. Section 25(4) provides that for the purposes of determining whether a machine is a machine of any description it is irrelevant whether it is capable of being played by only one person at a time or by more than one person. However, the number of players is relevant in the case of the newly excepted video machines. Therefore, this amendment excludes excepted video machines falling within section 21(3A)(d) from the provisions of section 25(4).

(3)(b) amends section 25(6) of the Act. The amended section provides that section 25(5) of the Act (number of machines) does not apply for the purposes of determining whether a machine is an excepted video machine within the new section 21(3A)(d), or in the case of a pinball machine or a machine that is an excepted machine.

5. Subsection (4) - provides that the section has effect in relation to the provision of an amusement machine at any time on or after the day on which the Finance Act is passed.

BACKGROUND

6. This clause replaces an existing extra statutory concession which was introduced in 1995 when video machines became liable to Amusement Machine Licence Duty. It also introduces a new upper price per play limit of 50 pence per play per player where two or more players play the game simultaneously. This closes a potential, although unexploited, loophole in the extra statutory concession.

**CLAUSE 15: AIR PASSENGER DUTY: REGISTRATION OF
FOREIGN AIRLINES****INTRODUCTION**

1. This clause provides for an aircraft operator who is liable to be registered for APD, but does not have any business or other fixed establishment in the UK, to appoint a fiscal representative for administrative purposes only (an "administrative representative"). It also provides that the administrative representative shall not be liable for payment of APD on condition that the aircraft operator provides security for duty.

DETAILS OF THE CLAUSE

2. Subsection (1) amends Chapter IV of Part 1 of the Finance Act 1994 by inserting a new section 34A.

3. Section 34A(1) sets out the conditions which must be fulfilled in order for an administrative representative to be appointed: (i) a statement is made that the appointment is for administrative purposes only and (ii) the aircraft operator has provided the necessary security required by Customs and Excise.

4. Section 34A(2) limits the responsibilities of a fiscal representative who is appointed for administrative purposes only (an administrative representative). It provides that an administrative representative shall not be required to ensure the payment of duty which is due or may become due from his principal nor be made personally liable for payment of such duty.

5. Section 34A(3) specifies that security required as a pre-condition of appointing an administrative representative will be provided in accordance with general directions given by the Commissioners of Customs and Excise.

6. Section 34A(4) provides that an administrative representative shall not be liable to provide security under section 36 of the Finance Act 1994 (security for payment of duty).

7. Section 34A(5) provides that an administrative representative shall not be made liable for payment of any penalty or interest issued in respect of an aircraft operator's failure to pay duty or to pay duty before a certain time.

8. Subsection (2) provides that the terms of section 34(4) of the Finance Act 1994 (effect of appointment of fiscal representative) are qualified by making them 'subject to' the provisions of the new section 34A.

BACKGROUND

9. Under current law any aircraft operator without a business establishment in the UK, who operates chargeable flights from UK airports, is required to appoint a fiscal representative who will be liable for the duty debts of his principal.

10. This has resulted in many airlines having difficulty finding fiscal representatives who are willing to act on their behalf. In these circumstances the airlines are not brought under revenue control and the duty is not secured. Also, failure to appoint such representatives is a contravention of APD law and may attract civil penalties.

11. In order to protect the revenue and minimise the vulnerability of such airlines to offence action Customs and Excise have spent an inordinate amount of time administering and 'brokering' relationships between aircraft operators, representatives and agents. Where this has failed to work Customs and Excise have acted as surrogate representative for the airlines concerned. This practice is unofficial, has no explicit legal basis and is not a good use of Customs resources.

12. The new measure addresses many of these issues by offering an additional measure of security and by making it easier for airlines to comply with APD requirements.

**CLAUSE 16 AND SCHEDULE 1: VED: RATES OF DUTY FOR REDUCED
POLLUTION VEHICLES**

SUMMARY

1. Clause 16 introduces Schedule 1 which confers enabling powers to introduce a scheme to provide a reduction in Vehicle Excise Duty by up to £500 for lorries and buses that have been modified so as to meet a prescribed reduced pollution standard.

DETAILS OF THE CLAUSE AND SCHEDULE

2. Clause 16 introduces Schedule 1 which makes provision for reduced rates of VED to apply to certain vehicles that have been adapted so as to reduce pollution.

Schedule 1

3. Paragraph 1 defines "the 1994 Act" as meaning, for the purpose of the Schedule, the Vehicle Excise and Registration Act 1994.

4. Paragraph 2 provides for the insertion of a new section 61B (certificates as to reduce pollution) into the 1994 Act.

5. Subsection (1) of the inserted section 61B enables the Secretary of State to make regulations for various purposes connected with reduced pollution certificates, namely -

- (a) for applications to be made to the Secretary of State for the issue of certificates in respect of eligible vehicles;
- (b) for the determination of applications;
- (c) for the examination of eligible vehicles by prescribed persons in a prescribed manner for the purpose of the determining applications;
- (d) for the fee for examinations;
- (e) for certificates to be issued if, and only if, an eligible vehicle is found on examination to satisfy the reduced pollution requirements;
- (f) the form and content of certificates;

- (g) for certificates to be valid for a period determined by the Secretary of State;
- (h) for the revocation, cancellation or surrender of a certificate before the end of the period of validity;
- (i) for the Secretary of State to require the return of revoked certificates;
- (j) for the fact that a certificate is, or is not, in force for a vehicle to be treated as having conclusive effect for the purposes of prescribed matters;
- (k) for the Secretary of State to be entitled, in prescribed circumstances to require the production of a certificate before determining the rate of duty under section 7(5) of the 1994 Act; and
- (l) for appeals against the refusal of certificates.

6. Subsection (2) provides that the reduced pollution requirements are satisfied with respect to a vehicle at any time if, as a result of the making of prescribed adaptation to it after a prescribed date, prescribed requirements are satisfied with respect to the rate and content of its emissions.

7. Subsection (3) provides that, for the purpose of enabling the Secretary of State to decide whether the requirements are satisfied with respect to a vehicle the subject of a reduced pollution certificate, regulations under the inserted section 61B may authorise prescribed persons to require the vehicle to be re-examined, may provide for a fee to be paid for the re-examination and may provide for the refund of the fee if it is found on examination that the reduced pollution requirements are satisfied.

8. Subsection (4) defines eligible vehicle, that is to say a vehicle that can benefit from having a reduced pollution certificate, as meaning certain classes of vehicle specified in Schedule 1 to the 1994 Act, namely a bus, (Schedule 1, paragraph 3(2)), a vehicle carrying abnormal loads (Schedule 1, paragraph 6) a haulage vehicle, paragraph 7(2)) (but not a showman's haulage vehicle) or a goods vehicle (except one falling within paragraph 9(2) or 11(2) of Schedule 1, ie showmen's goods vehicles, small island goods vehicles and goods vehicles used to carry loads for driver training, all of which are already liable to duty at reduced rates.

9. Subsection 5 defines prescribed as meaning prescribed by regulations made by the Secretary of State.

10. Paragraph 3 amends paragraph 3 of Schedule 1 to the 1994 Act (rates of duty for buses).

11. Subparagraph (1) amends paragraph 3(1) of Schedule 1 to the 1994 Act so that the normal rates do not apply to reduced pollution vehicles.
12. Subparagraph (2) inserts a new subparagraph (1A) into paragraph 3 of Schedule 1 to the 1994 Act which ties the rate of duty for a reduced pollution bus to the general rate in paragraph 1(2) of Schedule 1 to the 1994 Act (£150).
13. Subparagraph (3) makes a consequential amendment to paragraph 3(6) which defines the "basic goods vehicle rate".
14. Paragraph 4 amends the definition of "basic goods vehicle rate" in paragraph 4(7) of Schedule 1 (rate of duty for special vehicles).
15. Paragraph 5 amends the definition of basic goods vehicle rate in paragraph 5(6) of Schedule 1 to the 1994 Act (rate of duty for recovery vehicles).
16. Paragraph 6 amends paragraph 6 of Schedule 1 to the 1994 Act (rates of duty for vehicles used for exceptional loads).
17. Subparagraph 1 amends paragraph 6(2) of Schedule 1 to the 1994 Act by making the rate of duty the rate specified in paragraph 6(2A) rather than the "heavy tractive unit rate".
18. Subparagraph (2) inserts a new paragraph 6(2A) in Schedule 1 to the 1994 Act specifying the duty for a vehicle carrying an exceptional load which is a reduced pollution vehicle as £4,670 and for all other vehicles in the class at £5,170.
19. Subparagraph (3) repeals paragraph 6(3A) of Schedule 1 to the 1994 Act (definition of heavy tractive unit rate).
20. Paragraph 7 amends paragraph 7 of schedule 1 to the 1994 Act (rates of duty for haulage vehicles).
21. Subparagraph (1) amends paragraph 7(1)(b) of Schedule 1 to the 1994 Act so as to provide that the rate of duty for a haulage vehicle is to be the rate specified in paragraph 7(3A) instead of the general haulage rate.
22. Subparagraph (2) makes a consequential amendment to paragraph 7(3) of Schedule 1 to the 1994 Act (definition of basic goods vehicle rate).
23. Subparagraph 3 inserts a new paragraph 7(3A) in Schedule 1 to the 1994 Act so as to provide that the rates of duty for haulage vehicles are the general rate in paragraph 1(2) (£150) for reduced pollution vehicles and £350 for other vehicles.
24. Subparagraph (4) repeals paragraphs 7(4), (5) and (6) of Schedule 1 to the 1994

Act which provide for the calculation of the general haulage rate.

25. Paragraph 8 amends paragraph 9 of Schedule 1 to the 1994 Act which sets out the rates of duty for rigid goods vehicles.
26. Subparagraph 1(1) makes a consequential amendment to paragraph 9(1).
27. Paragraph (2) amends paragraph 9(3) so as to set the rate of duty for a rigid goods vehicle having a revenue weight exceeding 44 tonnes which is not a reduced pollution vehicle or an island vehicle at £5,170.
28. Subparagraph (3) makes a consequential amendment to paragraph 9(4) and subparagraph (4) repeals paragraph 9(5) (definition of heavy tractive unit rate).
29. Paragraph 9 inserts new paragraphs 9A and 9B into Schedule 1 to the 1994 Act.
30. The inserted paragraph 9A applies to reduced pollution rigid goods vehicles which do not fall within paragraph 9(2) (that is showmen's goods vehicles, island goods vehicles and vehicles used loaded for the purposes of driver training) and have a revenue weight exceeding 3.5 tonnes. The annual rate of duty is fixed according to the Table in the inserted paragraph 9B according to the revenue weight and the number of axles of the vehicle. For reduced pollution rigid goods vehicles having a revenue weight exceeding 44 tonnes the duty is fixed at £4,670.
31. Paragraph 10 makes a consequential amendment to paragraph 9(1) (trailer supplements) of Schedule 1 to the 1994 Act. The amount of trailer supplement is unaffected by whether the vehicle drawing it is a reduced pollution vehicle or not.
32. Paragraph 11 makes consequential amendments to paragraph 11 of Schedule 1 to the 1994 Act (rates of duty for goods vehicles which are tractive units).
33. Subparagraph (1) makes a consequential amendment to paragraph 11(1) of Schedule 1 to the 1994 Act.
34. Subparagraph (2) amends paragraph 11(3) so as to set at £5,170 the annual rate of duty for a tractive unit, which is not a reduced pollution vehicle, has a revenue weight exceeding 44 tonnes and is not an island vehicle.
35. Subparagraph (3) makes a consequential amendment to paragraph 11(4) of Schedule 1 to the 1994 Act and subparagraph (4) repeals paragraph 11(5) (definition of heavy tractive unit weight).
36. Paragraph 12 inserts new paragraph 11A and 11B into Schedule 1 to the 1994 Act.

37. The inserted paragraph 11A applies to a reduced pollution tractive unit which is not a vehicle to which paragraph 11(2) applies (that is a showman's goods vehicle, an island goods vehicle or a tractive unit attached to a semi-trailer which is loaded for driver training) and has a revenue weight exceeding 3.5 tonnes. The annual rate of duty for these vehicles is fixed by reference to the Table in the inserted paragraph 11B according to the revenue weight of the tractive unit, the number of axles on the tractive unit and the number of axles on the semi-trailers drawn by it. The annual rate of duty for a reduced pollution tractive unit exceeding 44 tonnes is set at £4,670.

38. Paragraph 13 amends section 15 of the 1994 Act (vehicles becoming chargeable to duty at a higher rate) by inserting a new subsection (2A). The effect of this is that a vehicle is to be taken to be used so as to subject it to duty at a higher rate if it was licensed as a reduced pollution vehicle and is used under the licence when the reduced pollution requirements are not satisfied.

39. Paragraph 14 amends section 16 of the 1994 Act (exceptions from charges at a higher rate under section 15 in the case of tractive units) by inserting three new subsections. These provisions apply where a tractive unit to which section 16(2), (4) or (6) applies is licensed as a reduced pollution vehicle and is used at a time when the reduced pollution requirements are not satisfied with respect to it. Section 16(1) does not prevent such a vehicle becoming subject to a higher rate of duty.

40. Paragraph 15 amends section 45 of the 1994 Act which creates offences relating to false or misleading declarations in relation to vehicle excise duty. The amendments make it an offence for a person, in supplying information or producing documents for the purposes of regulations under the inserted section 62A (regulations about reduced pollution certificates) knowingly or recklessly to make a false or misleading statement or to produce or make use of a document which he knows to be false or misleading. It is also an offence for a person, with intent to deceive, to forge, alter or use a reduced pollution certificate issued under section 62A, or knowing or believing that it will be used for deception to lend such a certificate to another or allow another to alter or use it, or without reasonable excuse to make or have in his possession any document so closely resembling such a certificate as to be calculated to deceive. The maximum penalty for all these offences is, on summary conviction, a fine not exceeding the statutory maximum and, on condition on indictment, imprisonment for a term not exceeding two years or an unlimited fine or (except in Scotland) both.

41. Paragraph 16 makes amendments to paragraph 22 of Schedule 2 to the 1994 Act (which confers various exemptions from duty in relation to vehicles being used or taken to or from certain tests) so as to extend these exemptions in specified circumstances to reduced pollution tests.

42. Paragraph 17 provides for the commencement of Schedule 1. Paragraphs 1, 2, 15 and 16 come into force on the passing of the Bill. The remainder of the Schedule comes into force in relation to licences issued on or after a date appointed by a statutory instrument made by the Secretary of State. Different dates may be appointed for different purposes.

BACKGROUND NOTES

43. This clause delivers the Chancellor's commitment to introduce reduced rates of Vehicle Excise Duty (VED) to encourage the use of low emission vehicles. Research shows that emissions from road transport can damage the environment and health, with links to respiratory and cardiovascular illness.

44. The changes are designed to reduce damaging emissions from diesel powered vehicles and is in line with the Government's air quality commitment following the Kyoto conference. Reduced rates of VED will apply to most commercially operated lorries and buses that have been modified by fitting approved technology such as a particulate trap, converted to gas fuel or re-engined to a defined higher environmental standard from that which applied at the time the vehicle was constructed.

45. Reduced rates of VED will be as much as £500 for the heaviest lorry with a flat rate of £150 for buses. Regulations prescribing the 'reduced pollution emission requirements' and the mechanism for introducing the VED incentive will have to be made before the reduced rates apply. It is intended that VED incentives for reduced pollution vehicles be introduced by January 1999.

RESOLUTION 16

CLAUSE 17: VEHICLE EXCISE DUTY (OLD VEHICLES)

SUMMARY

1. This clause freezes the exemption from Vehicle Excise Duty for vehicles over 25 years old so that it applies only to vehicles constructed before 1 January 1973. Changes have effect on the passing of the Act.

DETAILS OF THE CLAUSE

2. The clause amends paragraph 1A(1) of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exemption for old vehicles). The definition of the class of vehicles to which the exemption applies is changed to vehicles constructed before 1 January 1973. This replaces the current provision whereby a vehicle is exempt at a time if it was constructed more than 25 years before the beginning of the year in which that time falls.

BACKGROUND NOTES

3. Pending a decision on the reform of VED to encourage cleaner vehicles, the Government has decided to freeze rates of VED and any existing extension of exemptions from VED.

4. The exemption from VED for old vehicles will continue to apply, but only to vehicles constructed before 1 January 1973. These vehicles will continue to be subject to license annually, to display a 'nil' disc and produce a valid MOT and certificate of insurance.

RESOLUTION

CLAUSE 18: VED: REGULATIONS RELATING TO NIL LICENCES

SUMMARY

1. This clause enables the Secretary of State to make regulations for the issue of a duplicate `nil' licence (issued to vehicles exempt from VED), for a fee to be charged on the issue of a duplicate `nil' licence in certain circumstances, and for the return of a nil licence in circumstances to be prescribed.

DETAILS OF THE CLAUSE

2. The clause amends section 22(2A) of the 1994 Act (provisions that may be made in registration regulations about `nil' licences) by the insertion of two new paragraphs. The new paragraph (c) enables such regulations to make provision for cases where a `nil' licence is or may be lost, stolen, destroyed or damaged or has become illegible or inaccurate. These regulations may include a provision requiring the payment of a fee for the issue of a duplicate. The new paragraph (d) enables regulations to make provision for the case where a `nil' licence ceases to be in force in prescribed circumstances. These could include the circumstances where it is not renewed or a vehicle licence is not taken out and in such a case the holder of the licence could be required to furnish to the Secretary of State prescribed particulars and make a prescribed declaration.

BACKGROUND NOTES

3. Vehicles exempt from VED are required to take out and display a `nil' licence. There are around 1 million exempt vehicles. The clause enables keepers of exempt vehicles to apply to the licensing authority for a duplicate `nil' licence in cases where the original has been lost, stolen etc. Currently a fee is applied to the issue of a duplicate `vehicle' licence (on which duty is paid) and this change extends the fee for the issue of a duplicate `nil' licence.

4. This clause also reinforces the enforcement powers to allow the licensing authority to require keepers to surrender the `nil' licence in circumstances where the exemption from VED no longer applies. Many keepers sell their vehicles on, displaying the `nil' licence and there is a temptation for a new keeper to use the vehicle unlicensed but displaying the `nil' disc.

5. Bringing the enforcement and administration of licences for vehicles which are exempt from VED into line with licences on which duty is payable will therefore assist law enforcement and road safety, protect revenue and enhance the information held by DVLA.

RESOLUTION 17

CLAUSE 19: VEHICLE EXCISE DUTY (DISHONOURED PAYMENTS)

SUMMARY

1. This clause amends the Vehicle Excise and Registration Act 1994 to require a keeper who defaults on payment on a vehicle licence by means of a dishonoured cheque to surrender the licence within a specified period, and that duty be paid to cover the period during which he held the licence. The amendment applies to notices sent or orders made on or after the passing of the Act.

DETAILS OF THE CLAUSE

2. Subsection (1) amends section 35A(1) of the 1994 act which makes it an offence to fail when asked to return a vehicle licence which has become void by reason of the dishonouring of the cheque used to pay the duty on it. The effect of the amendments is that the circumstances in which the offence is committed are modified to a case where a notice is served on the person to whom the licence was issued containing a "relevant requirement" and the person fails to comply with that requirement.

3. Subsection (2) inserts a new subsection (3) into section 35A to define a "relevant requirement" as a requirement to deliver up a licence within a reasonable period specified in the notice or a requirement to deliver up the licence within a period so specified and, on doing so, to pay a specified amount. A new subsection (4) provides that the amount is to be equal to 1/12th of the appropriate annual rate of vehicle excise duty for each month, or part of a month, in the "relevant period".

4. The inserted subsection (5) defines the appropriate annual rate of duty for this purpose and new subsections (6) and (7) define the "relevant period".

5. Subsection (3) makes a consequential amendment to section 36 of the 1994 Act, which imposes additional liability on persons convicted of offences of failing to return licences or pay sums under section 35. It substitutes new subsections (4) and (4A) defining the "relevant period" for the purposes of section 36.

6. Subsection (4) inserts a new section 36(6) which provides that where a person has been convicted of an offence under section 35A in relation to a vehicle or trade licence and that person has been required to pay a sum under section 35A(b) (ie back duty), the order to pay back duty under section 36 supersedes the requirement to pay under section 35A.

7. Subsection (5) provides that the provisions of clause 19 are to apply to notices sent and orders made on or after the day on which the Bill is passed.

BACKGROUND

8. Currently, recovery of additional duty is limited to cases where keepers fail to respond to a notice issued by the Driver and Vehicle Licensing Agency to surrender a void vehicle licence. The power will make it a condition of the notice that the arrears of duty must be paid in addition to the requirement to surrender the licence.

9. This clause also provides that failure to comply with any of the requirements specified in the notice is a summary offence and is liable to a penalty of £1,000 or an amount equal to five times the annual rate of duty.

CLAUSE 20 : ASSESSMENTS FOR EXCISE DUTY PURPOSES

INTRODUCTION

1. This clause and Schedules 2 and 27 Part I(5) extends the excise assessment provisions with effect from a date to be announced, following Royal Assent. Persons assessed have a right to a review of the assessment, and have a right of appeal to a VAT and duties tribunal against the outcome of a review. The repeals are listed in Schedule 27 Part I(5) and take effect from the same date.

DETAILS OF THE CLAUSE

2. Clause 20 brings into effect Schedule 2.

DETAILS OF SCHEDULE 2

3. Paragraph 1 amends section 8 of the Alcoholic Liquor Duties Act 1979 to allow the Commissioners of Customs and Excise to assess as excise duty amounts due arising from certain irregularities relating to non-duty paid spirits used for medical or scientific purposes.

4. Paragraph 2 amends section 10 of the Alcoholic Liquor Duties Act 1979 to allow the Commissioners to assess as excise duty amounts due arising from certain irregularities relating to non-duty paid spirits used in art or manufacture.

5. Paragraph 3 amends section 11 of the Alcoholic Liquor Duties Act 1979 to allow the Commissioners to assess as excise duty amounts due arising from certain irregularities relating to non-duty paid spirits contained in imported goods not for human consumption.

6. Paragraph 4 amends section 13AB of the Hydrocarbon Oil Duties Act 1979 to allow the Commissioners to assess as excise duty amounts due arising from the misuse of rebated kerosene.

7. Paragraph 5 amends section 8 of the Tobacco Product Duties Act 1979 to allow the Commissioners to assess as excise duty amounts due arising in certain situations where a person who is or has been in

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possession of tobacco products cannot show that duty has been accounted for.

8. Paragraph 6 inserts a new subsection into section 2 of the Finance (No.2) Act 1992 to allow the Commissioners to assess as excise duty amounts due arising from the cancellation of a drawback entitlement by the Commissioners under related drawback regulations.

9. Paragraph 7 inserts a new subsection to section 12 of the Finance Act 1994 enabling the Commissioners to assess an amount of excise duty as being due from a person if that amount can be ascertained by them.

10. Paragraph 8 amends section 12A(3) of the Finance Act 1994 so that amounts assessed in the circumstances falling within paragraphs 1 to 6 of the Schedule (provided the assessed person or his representatives has been notified), are, subject to any appeal under section 16 of that Act, deemed to be an amount of excise duty due from the assessed person and may be recovered as such.

11. Paragraph 9 amends section 12B(2) of the Finance Act 1994 to describe indirectly the period of time in which the Commissioners' power to assess applies, in each of the circumstances falling within paragraphs 1 to 6 of the Schedule.

12. Paragraph 10 amends section 14 of the Finance Act 1994 to grant any person assessed in the circumstances outlined in paragraphs 1 to 6 of the Schedule, the right to a review by the Commissioners of the merits of the assessment, from which there is a right of appeal to a VAT and duties tribunal by virtue of section 16 of the Finance Act 1994.

13. Paragraph 11 inserts a new subsection into section 16 of the Finance Act 1994 which disapplies section 16(3) of that Act (restrictions on the entertainment by a VAT and duties tribunal of specified appeals to that tribunal).

14. Paragraph 12 enables the Commissioners to bring the provisions of the Schedule into effect by commencement order and permits the use of different commencement days for different purposes.

BACKGROUND

15. Excise duty assessment provisions were introduced under section 12 of the Finance Act 1994. These gave the Commissioners the power to issue assessments to recover unpaid amounts of excise duty i.e. excise duty due. In cases of dispute, traders could ask for a Departmental review of the assessment, and could then appeal to a VAT and duties tribunal. The Finance Act 1997 extended the scope of these assessment powers to include arrears of amounts which are not actual excise duty due (such as recovery of drawback, rebates, repayments and remissions in respect of excise duty).

16. There remain certain situations where the Commissioners do not possess the legal power to issue assessments, though they may have in some cases the legal power to recover the amount in question. Schedule 2 extends the assessment mechanism to include these type of situations, and thereby extends a trader's right to a Departmental review and right of appeal to a VAT and Duties Tribunal if there is a dispute over any assessed amount.

17. The measure takes effect from a date to be announced, following Royal Assent (see paragraph 14 above).